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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

In re Patent No. 7,505,877	
Timothy Salsbury	
Issue Date: March 17, 2009	
Application No. 10/093,857	DECISION ON REQUEST FOR
Filed: March 8, 2002	RECONSIDERATION OF
Attorney Dkt. No. 081445-0265	PATENT TERM ADJUSTMENT
Title: System and Method For	
Characterizing A System	

This is in response to the "Request For Reconsideration Of Patent Term Adjustment Under 37 CFR § 1.705" filed April 24, 2009. This petition will be treated under 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment is **DISMISSED**.

On March 17, 2009, the above-identified application matured into US Patent No. 7,505,877 with a patent term adjustment of 653 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentee requests recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 680 of the 849 days, does not overlap with the 839 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day.

Thus, patentee requests that the determination of patent term adjustment be increased by 680 days to a total of one thousand three hundred twenty-three (1323) days.

Petitioner asserts the 849 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on March 8, 2002, and a request for continued examination (RCE) having being filed on July 5, 2007. The filing of a RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1).

Patentee further contends that 169 days of the period of delay of 839 days for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed (March 8, 2002 to August 24, 2005) overlaps with the Three Year Delay period (March 8, 2005 to July 5, 2007). Patentee asserts that this overlapping period is the 169 days running from March 8, 2005 to August 24, 2005.

Accordingly, patentee submits that the total period of Office Delay is 1688 days, which is the sum of the period of Three Year Delay (849 days) and the period of Examination Delay (839 days), reduced by the period of overlap (169 days).

As such, patentee asserts entitlement to a patent term adjustment of 1323 days (849 +839 reduced by 169 overlap -196 days for applicant delay).

The Office finds the following: under 37 CFR § 1.703(f), patentee is entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 196 days for applicant delay is not in dispute.

The Office agrees that the total period of Office delay is the sum of the period of Three Years Delay terminated by the filing of a RCE (849 days) and the period of Examination Delay (839

days) to the extent that these periods of delay are not overlapping.

The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 839 days is correct. At issue is whether patentees should accrue 849 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 839 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that 849 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

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

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 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. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days

the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, March 8, 2002 until the filing of the RCE on July 5, 2007. 839 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame set in 37 CFR 1.702(a)(1)-(4). In addition, the Office did fail to meet 37 CFR 1.702(b) by a period of 849 days. The Office finds these days overlap and with the Office delays of 839 days. Further, applicant failed to engage by an uncontested period of 196 days.

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

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 653 days (849 - 196).

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

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Kery A. Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

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Paper No. 6

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OFFICE OF PETITIONS

In re Application of
Massoud Mike Mogadam
Application No. 10/093,859
Filed: March 8, 2002
Atty Docket No. VTLK.P0003
Title: METHOD, APPARATUS, AND SYSTEM FOR MONITORING AMOUNT OF LIQUID POURED FROM LIQUID CONTAINERS

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

This is in response to the "Petition under 37 CFR 1.47(b)[1] to Prosecute Patent Application without Inventor Signature," filed November 18, 2002.

The petition under 37 C.F.R. § 1.47(b) is **DISMISSED**.

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

The above-identified application was filed on March 8, 2002 with an unexecuted declaration naming Massoud Mike Mogadam as sole inventor. On April 11, 2002, applicant was mailed a

[1]A grantable petition under 37 CFR 1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR 1.63.

"Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with § 1.63, the basic filing fee, additional claim fees, and a surcharge for the late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, along with the petition fee and the fee associated with the late filing of an oath of declaration, the basic filing fee, additional claim fees, and a five-month extension of time to make timely this reply. Petitioner asserts that because of the facts set forth on petition, Vital Link Business Systems, Inc. ("Vital Link"), the Commissioner should allow Vital Link to prosecute the above-referenced Patent Application as well as any Divisional, Continuation or Continuation-in-Part Application which may be filed that are based on the present Application since Vital Link has a sufficient proprietary interest and the inventor refuses to sign. In support thereof, petitioner submitted:

- An unexecuted declaration for patent, identifying Massoud Mike Mogadam as sole inventor;
- Verified statement of facts and declaration by Mr. David Hong, founder Senior Vice President, General Counsel and Secretary of Vital Link;
- An employment agreement between sole inventor Mogadam and cEverything Corporation (now doing business as Vital Link) dated July 28, 2000;
  - Which identifies Patent No. 6,036,055 as a prior invention;
  - Which includes a copy of California Labor Code Section 2870, which exempts certain inventions developed on employee's own time from assignment in employment agreements;
  - Which includes inventor Mogadam's termination certification signed November 14, 2001;
- A Royalty Agreement between Barmate Corporation (Barmate) and Vital Link, which states that Barmate expressly acknowledges and agrees that, since on or about July 28, 2000, Mogadam has been working, and he will continue to be working, with and/or for Vital Link on matters relating to the Licensed Patent ... and that Vital Link will own all right, title, and interest, including any and all intellectual property rights (including without limitation patent, copyright, or trade-secret), in and to any Developments which may result, in whole or in part, from Mogadam's such work;
- A Complaint by non-signing sole inventor Mogadam and Barmate against rule 47(b) applicant Vital Link and Crosspoint Ventures filed on August 12, 2002 in the United States District Court of the Northern District of California for patent infringement under 35 U.S.C. 271;
  - in which the Letters Patent No. 6,036,055 is said to be assigned to Barmate;
  - in which rights, including assignment, were said to have reverted back from Vital Link to Barmate under section 4.2 of the Royalty Agreement, the reversion occurring possibly before the filing of the instant application, in February of 2002;
  - including Count Five for, in part, infringement based on Vital Link filing an application for a patent covering, devices that incorporate one or more components or products that employ or are produced by the practice of inventions and/or Technology claimed in the Patent; and
  - requesting, among other things, that the Court enjoin Vital Link from filing an application for a new patent.

35 U.S.C. 118 provides that:

> Whenever an inventor refuses to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom the inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as

agent for the inventor on proof of the pertinent facts and a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage; and the Director may grant a patent to such inventor upon such notice to him as the Director deems sufficient, and on compliance with such regulations as he prescribes.

(Amended Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

Having reviewed the documents submitted on petition, it is concluded that the evidence supports the following conclusions:

- Non-signing inventor Mogadam is a named inventor of the subject matter of patent No. 6,035,055 (this is confirmed in PTO records). Further, the '055 patent was assigned to Barmate, a corporation headed by inventor Mogadam. It is stated in the complaint, and in the Royalty Agreement, that Barmate granted to Vital Link an exclusive license to make, sell, install and take other actions with respect to products that employed or were produced by the practice of inventions and/or the Technology claimed in the Patent. The complaint alleges that the instant application incorporates one or more components or products that employ or are produced by the practice of inventions and/or Technology claimed in the Patent. Furthermore, the complaint alleges that rights granted to Vital Link reverted to Barmate prior to the filing of the instant application.

  Regardless, of the determination on the issue of whether the rights reverted back to Barmate, a license is not an assignment of the patent. Even if the license is an exclusive license, it is not an assignment of patent rights in the patent or application. See MPEP 301. The petition includes no assignment of the instant application to rule 47(b) applicant Vital Link. Any agreement to assign set forth in the employment agreement must be viewed in light of the California Labor Code. Most importantly, the proprietary interest of Vital Link appears to be the subject of dispute in federal district court.

In view thereof, it is concluded that Vital Link has not shown that they have sufficient proprietary interest in the subject matter to justify allowing them to file this application on behalf of inventor Mogadam. It is further noted that even if the other requirements of 35 USC 118 were met, the declaration submitted is not acceptable. It is not executed. A grantable petition under rule 47(b) requires a properly executed declaration by the rule 47(b) applicant on behalf of sole inventor Mogadam.

Accordingly, the petition must be **dismissed.**

Any renewed petition should include relevant information on the disposition of the ownership issues in federal district court. Petitioner must show why Vital Link should be allowed to make this application on behalf of sole inventor Mogadam. In addition, a declaration properly executed, pursuant to 1.47(b), on behalf of sole inventor Mogadam is required.

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[2]
By FAX:	(703) 308-6916 Attn: Office of Petitions

[2] Effective May 1, 2003, the United States Patent and Trademark Office has a new address for some mail. See Correspondence with the United States Patent and Trademark Office, 68 Fed. Reg. 14332 (March 25, 2003).

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
Petitions Attorney
Office of Petitions

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Paper No. 10

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JAN 21 2004

OFFICE OF PETITIONS

In re Application of Massoud Mike Mogadam Application No. 10/093,859 Filed: March 8, 2002 Title: METHOD, APPARATUS, AND SYSTEM FOR MONITORING AMOUNT OF LIQUID POURED FROM LIQUID CONTAINERS	DECISION NOTING JOINDER OF INVENTOR and PETITION UNDER 37 CFR §1.47(b) DISMISSED AS MOOT

This is in response to the "Request for Reconsideration of Petition under 37 C.F.R. § 1.47(a) for VTLK.P0003," filed by facsimile transmission on January 6, 2004 (and by mail on January 9, 2004).

The petition under § 1.47(b) is **DISMISSED AS MOOT**.

The above-identified application was filed on March 8, 2002 with an unexecuted declaration naming Massoud Mike Mogadam as sole inventor. In response to a Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted mailed April 11, 2002, a petition under § 1.47(b) was filed. By decision mailed June 6, 2003, the petition was dismissed for failure to show adequate proof of proprietary interest on the part of rule 47(b) applicant and for failure to submit an acceptable declaration.

On instant renewed petition, petitioner submitted a declaration executed by sole inventor Mogadam. This is a proper type of reply to the decision refusing status under § 1.47(b). The declaration filed January 6, 2004, has been reviewed and found in compliance with § 1.63.

In view of the joinder of inventor Mogadam, further consideration under 37 CFR 1.47(b) is not necessary and the petition is considered 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).

The application file is being forwarded to Technology Center Art Unit 2855 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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JAN 21 2010

OFFICE OF PETITIONS

In re Patent No. 6892166	:	
Issue Date: 05/10/2005	:	
Application No. 10/093859	:	DECISION ON PETITION
Filed: 03/08/2002	:	
Attorney Docket No. VTLK.P0003	:	

This is a decision on the petition under 37 CFR 1.378(c), filed July 8, 2009, to accept the unintentionally delayed payment of the maintenance fee for the above-identified patent.

The petition is **granted**.

The patent issued May 10, 2005. The grace period for paying the maintenance fee expired on May 11, 2009. This petition was filed timely under the provisions of 37 CFR 1.378(c) because it was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Accordingly, the maintenance fee in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Files Repository.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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In re Application of
Ronald J. Lievens, et al.
Application No. 10/093,869
Filed: March 8, 2002
Attorney Docket No. 30925

This is a decision on the petition under 37 CFR 1.313(c)(2), filed by facsimile transmission on August 22, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 9, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 3745 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

ALECTO
AUG 2 8 2003
ENTERED BY _____

[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: "Commission r for Pat nts is request d to apply the Issue Fe 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 n t, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 6

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LOS ANGELES CALIFORNIA 90025

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JAN 3 1 2003

OFFICE OF PETITIONS

In re Reissue Application of Welsh Application No. 10/093,903 Filed: March 8, 2002 Original Patent No.: 6,056,172 Issue Date: May 2, 2000 Attny Dckt No. 4628P001R	DECISION GRANTING PETITION

This reissue application has been referred to this office by the Technology Center assigned to this application to consider the petition filed under 37 CFR 1.182 on May 7, 2002, which petition is being treated *sua sponte* as a petition under 37 CFR 1.182 requesting that the delay in filing the missing page 4 containing the original patented claims be excused, and, as such, the above-identified reissue application be accorded a filing date of March 8, 2002, instead of the presently accorded filing date of May 7, 2002.

So construed, the petition under 37 CFR 1.182 is granted.

The instant application papers were deposited on March 8, 2002, as an application for reissue of U.S. Patent No. 6,056,172. The filing transmittal included an indication that, *inter alia*, the specification and claims in double column copy of the original letters patent format were being submitted.

However, on April 17, 2002 the Office of Initial Patent Examination (OIPE) mailed a Notice indicating that page 4, claims 2-10(sic, since claim 1 was only partially recited on page 3 and continued onto the missing page and claim 10 was not present in the as-issued patent but was supplied via the preliminary amendment deposited with the other applicaiton papers) were missing, and that applicant could *inter alia* contend on petition under 37 CFR 1.182, that the missing item(s) was in fract deposited in the USPTO on the original date or that the mising item(s) could be supplied and the subsequent date of receipt would become the accorded filing date.

In reply on May 7, 2002, applicant filed a petition acknowledging the inadvertant omission of the aforemetioned item, requested as the filing date the date of filing the missing item and supplied the missing copy of page 4 of the original letters patent.

In due course, the above-identified application was proccesed and accorded a filing date of May 7, 2002, the date the missing item was supplied.

However, under the circumstances of this reissue application, as (1) the omitted page 4 containing the remainder of the claims was a matter of public record in the original patent--as well as in the records of the USPTO-- on the date this reissue application was filed, and (2) applicant asserted on filing, that the above-identified patent specification and claims in double column copy of the original letters patent format were being submitted for reissue of the original patent, on petition, applicant's delay in providing the missing page 4, that was not filed until May 7, 2002 is excused, and this reissue application is entitled to a filing date of March 8, 2002.

As the petition was necessitated by applicant's filing error, the $130 petition fee will not be excused.

This reissue application is being returned to OIPE for further processing with a filing date of March 8, 2002, and an indication that 10 claims (9 originally patented claims and 1 additional claim added on the date of filing by the preliminary amendment of March 8, 2002) were present on filing, using the copy of page 4 filed May 7, 2002.

Telephone inquiries related to this decision should be addressed to the undersigned at (703) 305-1820.

Brian Hearn

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

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OFFICE OF PETITIONS

In re Reissue Application of
10/093,903
Reissue Application No. RE39022
Filed: March 8, 2002
Original Patent No. 6,056,172
Issue Date: May 2, 2000
For: BACKPACK CHAIR

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed June 16, 2008, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The original patent issued May 2, 2000. The 3.5 year maintenance fee was timely paid. This patent expired May 2, 2008 for failure to pay the 7.5 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.

There is no indication that the person signing the petition was ever given a power of attorney to represent patentee. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents 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) 272-3205.

Alesia M. Brown
Petitions attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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7150 E. Camelback, Suite 325
Scottsdale, Arizona 85251

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JUN 2 9 2005

OFFICE OF PETITIONS

In re Application of
Molla et al.
Application No. 10/093,909
Filed: March 8, 2002
Attorney Docket No. CROO-039

DECISION GRANTING PETITION

This decision is in response to applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER TO 37 CFR § 1.705(b)" timely[1] filed on April 29, 2005 requesting that the Office adjust the PTA from zero (0) days to a determination of four hundred and forty-eight (448) at the time of the mailing of the notice of allowance.

Applicants' application for PTA is **GRANTED.** The Office will make an adjustment to the PTA determination to reflect this decision.

Applicants request that the Office erred in asserting that the response to the restriction requirement mailed on 10/9/2003 was not received in the Office until 10/14/2004. Applicants assert that the actual response date to the restriction requirement occurred on October 17, 2003. Applicants assert that they faxed the response and received a receipt confirming the submission of the response to the election or restriction. Accordingly, applicants assert that there was no failure by applicants to engage in reasonable efforts to conclude prosecution of the application. Applicants assert that the 279 day reduction is an error. Moreover, applicants assert that the Office responded to the October 17, 2003 response to restriction requirement more than four month after such response was filed. Applicants assert that the delay amounted to 294 additional days of PTA.

Applicants arguments are persuasive. A review of the records reveal that Applicant did in fact respond to the restriction requirement within three months by faxing such to the Office and receiving from our central fax unit an auto-response noting receipt of such response. Accordingly, the response occurred on October 17, 2003 not October 14, 2004.[2] Because applicants actual response date was October 17, 2003, the Office had until February 17, 2004 to respond. The Office did not reply until December 7, 2004, a two hundred and ninety-four (294) day delay. See 37 CFR 1.702(a)(2). In addition, the Office notes that it failed to act within fourteen months of the filing of such application by a period of one hundred and fifty four days

[1]Issue fee paid on June 3, 2005.

[2]The submission of October 14, 2004 was in fact a resubmission of the previously filed request and not in fact the actual date of response.

(154). See 37 CFR 1.702(a)(1). Accordingly, overall the amount of delay amounted to four hundred and forty-eight (448) days (294 + 154 = 448).

After the mailing of this decision, the Office will forward this application to the Office of Patent Publications for a prompt issuance of the application.

The Office has assessed the $200.00 fee associated with this application. No additional fees are required by applicant.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration at 571-272-7757.

Kery A Fries

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

Cc: Copy of adjusted PAIR calculation

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OFFICE OF PETITIONS

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

In re Patent No. 7,437,288
Issued: October 14, 2008
Application No. 10/093,915
Filed: March 11, 2002
Dkt. No.: 048369-0133

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705", filed December 12, 2008. This matter is being treated under 37 CFR 1.705(d).

Patentee requests that the determination of patent term adjustment be corrected from 739 days to 1,371 days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

The application matured into U.S. Patent No. 7,437,288 on October 14, 2008 with a revised patent term adjustment of 739 days. The application was filed March 11, 2002. A request for continued examination was filed June 25, 2007. The Office determined that the 632 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[1,2] accorded prior to the filing of the request for continued examination overlaps with the 836 days of Office delay

---

[1] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[2] A first Office action was mailed February 1, 2005, fourteen months and 632 days after the application filing date, March 11, 2002.

pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[3,4]. As such, the Office allowed only entry of the actual period of delay, to wit, 836 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 97 days and the overall adjustment of 836 days, the patent issued with a revised patent term adjustment of 739 days (836 days less 97 days).

On December 12, 2008, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1,371 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1,468 days (836 days + 632 days) as these periods do not occur on the same day. Further, given the applicant delay of 97 days, patentee asserts entitlement to 1,371 (1,468 days – 97 days) of patent term adjustment.

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[5] *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

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[3] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

[4] As of the filing of the RCE on June 25, 2007, the application was pending three years and 836 days.

[5] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under

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. 54366 (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).

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, 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)(1)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), March 11, 2002, and ending on the date of filing of a request for continued examination (RCE), June 25, 2007 (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).

---

this section shall not exceed the actual number of days the issuance of the patent was delayed.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 632 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. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 836 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

The 632 days of patent term adjustment under 37 CFR 1.702(a)(1) overlaps with the 836 days of patent term adjustment under 37 CFR 1.702(b). Entry of both the 632 days and the 836 days is neither permitted nor warranted given that 836 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 836 days of patent term adjustment, having considered the 836 days of Office delay under the three-year pendency provision in conjunction with the 632 days of examination delay, reduced 97 days for applicant's delay.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 739 days.

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

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,437,288
Issued: October 14, 2008
Application No. 10/093,915
Filed: March 11, 2002
Dkt. No.: 048369-0133

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on November 2, 2009, which is being treated as a petition under 37 CFR 1.181 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1371 days. The petition is deemed timely, having been filed within two months of the mail date of the decision on petition mailed August 31, 2009. See, 37 CFR 1.181(f).

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on March 12, 2005 and ends on June 24, 2007, the day before the RCE was filed, and not June 25, 2007, as calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 835 days not 836 days. As such, the correct patent term adjustment is 1370 days, not 1371 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See, 37 CFR 1.323(a)(4).

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1370 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,437,288 B2

DATED : **October 14, 2008** **DRAFT**

INVENTOR(S) : Shinoda

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 739 days

Delete the phrase "by 739 days" and insert – by 1370 days--

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Paper No. 10

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WAYZATA MN 55391-1873

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JAN 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Gregory G. Johnson	:	
Application No. 10/093,918	:	ON PETITION
Filed: 7 March, 2002	:	
Attorney Docket No. ROCKET	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 9 December, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

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

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

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

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

This application became abandoned on 22 August, 2003, for failure to timely respond to the non-final Office action mailed on 21 May, 2003, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 8 December, 2003.

Petitioner requests the present application be revived for copendency with a continuation-in-part application. However, no continuation-in-part application has been identified in the present petition. Furthermore, a review of Office PALM records do not indicate that a continuation-in-part of the present application was ever filed. As such, the present petition lacks the reply required by 37 CFR 1.137(b)(1).

Petitioner should file a renewed petition indicating the application number and filing date of the continuation-in-part application with which petitioner desires copendency.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Paper No. 13

COHEN & SAKAGUCHI LLP
2424 SE BRISTOL STREET, SUITE 300
NEWPORT BEACH CA 92660

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MAR 1 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Gregory G. Johnson	:	
Application No. 10/093,918	:	ON PETITION
Filed: 7 March, 2002	:	
Attorney Docket No. ROCKET	:	

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on 13 January, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 22 August, 2003, for failure to timely respond to the non-final Office action mailed on 21 May, 2003, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 8

---

[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)).

December, 2003. The petition filed on 9 December, 2003, was dismissed on 8 January, 2004.

Petitioner requests the present application be revived for copendency with continuation-in-part application, No. 10/732,664, which petitioners assert was filed on 9 December, 2003.

Since this application is revived for purposes of continuity only with Application No. 10/732,664, and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the above-referenced continuing application.

The address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being forwarded to Files Repository.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Hugh D. Jaeger
Suite 302
1000 Superior Blvd.
Wayzata, MN 55391-1873

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Paper No. 16

COHEN & SAKAGUCHI LLP
2424 SE BRISTOL STREET, SUITE 300
NEWPORT BEACH CA 92660

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APR 0 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Gregory G. Johnson	:	
Application No. 10/093,918	:	ON PETITION
Filed: 7 March, 2002	:	
Attorney Docket No. CPG-004	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 22 March, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 16 March, 2004, as set forth in the Decision Granting Petition mailed on 15 March, 2004, which revived the present application solely for copendency with Application No. 10/732,664.

---

[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)).

Petitioners request the application be revived for prosecution, and have submitted an amendment in response to the non-final Office action mailed 21 May, 2003.

The petition fee of $665.00 has been charged to counsel's deposit account, No. 50-1105.

The application is being forwarded to Technology Center 3700 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

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NOV 15 2005

OFFICE OF PETITIONS

In re Patent No. 6,917,158 :
Issued: July 12, 2005 :
Application No. 10/093,940 :
Filed: March 8, 2002 :
Attorney Docket Number: 2055.002 :

ON PETITION

This is a decision on the petition, filed October 17, 2005, under 37 CFR 1.183 to correct the assignee's name on the front of the Patent. The petition is treated under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the assignee is CITYU RESEARCH LIMITIED, and that the failure to include the correct assignee name on the Fee(s) Transmittal form PTOL-85(b) was inadvertent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

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

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

The request is accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that CITYU RESEARCH LIMITED is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

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[1] *See* Official Gazette of June 22, 2004

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:	
Daniel L. Cosentino, et al.	:	
Application No. 10/093,948	:	DECISION GRANTING PETITION
Filed: March 7, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CARD-020/US/CIP1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 2, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 23, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3687 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

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

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#9

Paper No. 9

FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MA 02110-2804

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OFFICE OF PETITIONS

In re Application of
Robinson et al.
Application No. 10/093,953
Filed: March 8, 2002
Attorney Docket No. 12804-005002

ON PETITION

This decision concerns the June 23, 2003 "Petition under 37 CFR 1.137(a) to Revive Abandoned Application." The petition asserts non-receipt of a certain PTO correspondence 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.**

On April 15, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" ("4/15/02 Notice"), stating that the application had been accorded a filing date of March 8, 2002; and advising that the filed application was missing the following:

(1) the basic filing fee;
(2) an executed oath or declaration;
(3) drawings with proper margins, as required by 37 CFR 1.84;
(4) as required by 37 CFR 1.821-1.825: a computer readable form (CRF) copy, as well as a paper or compact disc copy, of the sequence listing; a statement that the content of the CRF sequence listing is identical to that in the paper or compact disc copy of the sequence listing, and contains no new matter;

and that a Figure 28C described in the specification appeared to have been omitted from the application as filed.

Applicants were given an extendable 2-month period for submitting the above missing/omitted items. No response was filed on or before November 15, 2002 and no extension of time under 37 CFR 1.136(a) was obtained. The application was held abandoned as of June 16, 2002.

The instant petition, accompanied by the above items except for a Figure 28C, asserts non-receipt of the 4/15/02 Notice and, in essence, requests withdrawal of the holding of abandonment in this application.

The holding of abandonment

A grantable petition to withdraw the holding of abandonment, alleging non-receipt of an Office

action which is the cause of the abandonment, must overcome a strong presumption that the Office action at issue, duly addressed and indicated as mailed, was timely delivered to the addressee.[1] The showing required to overcome this presumption consists of:[2]

(1) a statement from the practitioner:
(A) stating that the Office action was not received by the practitioner;
(B) attesting, by referencing the docket record in (2) below, that a search of the relevant file jacket and docket records indicates that the Office action was not received; and

(2) a copy of the docket record where the allegedly non-received Office action would have been docketed had it been received.

The petition in conjunction with the accompanying exhibits[3] meets the above requirements and is thus granted.

The holding of abandonment in this application is hereby withdrawn.

No petition fee is required. The $55 petition fee (small entity) submitted with the petition has been credited to Deposit Account No. 06-1050 as authorized in the petition.

Omitted Figure 28C

As indicated in the 4/15/02 Notice, the application upon filing on March 8, 2002 did not appear to include a Figure 28C which is described in the specification, e.g., on page 55. The set of substitute drawings submitted with the instant petition also does not contain a Figure 28C. In fact, Figures 28A and 28B are on "Page 56 of 76" of the drawings, while Figure 28D is on the following page, "Page 57 of 76."

If a Figure 28C was omitted but should have been filed with the original application, Applicants must file a petition under 37 CFR 1.182, with a $130 petition fee, to have the currently accorded filing date for the entire application changed to the day a Figure 28C is filed in the PTO.

If Applicants have proper evidence showing that a Figure 28C, described in the specification, was indeed filed with the remaining application papers on March 8, 2003, a petition under 37 CFR 1.53(e), along with a replacement drawing of Figure 28C and the $130 petition fee, may be filed to have that Figure 28C accorded the March 8, 2003 filing date.

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[1] 1156 OG 53 (Oct. 25, 1993). The 4/15/02 Notice was mailed to counsel's current address.

[2] *Id.*

[3] Exhibit A: copy of incoming mail log (4/15-5/13/02); Exhibit B: copy of docket printout (for docketing deadlines during 6/15-17/02); Exhibit C: copy of docket printout (for final docketing deadlines, i.e., end of extendable or non-extendable reply periods).

If the reference to a Figure 28C in the specification was a typographical error and a Figure 28C does not exist in the context of the original specification, a preliminary amendment should be filed to delete all direct or indirect references to a Figure 28C.

Regardless of which of the above is applicable for the instant application, Applicants should, as appropriate, submit a preliminary amendment revising the specification and/or corrected drawings with proper page number and labeling of the figures.

The "Combined Declaration and Power of Attorney"

The application declaration submitted with the instant petition is executed by all 3 named-inventors, however, contains alterations that have not been initialed and dated.[4] To avoid abandonment of this application, Applicants are hereby given **THIRTY (30) DAYS** from the mailing date of this decision to submit a supplemental oath or declaration in compliance with 37 CFR 1.67.[5]

The application file is being returned to OIPE for further processing, and to await the submission of a supplemental oath or declaration. Upon completion of pre-examination, the application file will be forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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4 37 CFR 1.52(c); MPEP 602.01 (Rev. 1, Feb. 2003).

5 Deficiencies pertain to inventors James M. Smith and Jian Hua.

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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AUG 19 2002

#6

BANNER & WITCOFF, LTD.
ELEVENTH FLOOR
1001 G STREET, N.W.
WASHINGTON, D.C. 20001-4597

In re Application of Fortuna Amsel et al Serial No.: 10/093,968 Filed: March 11, 2002 For: Pants Garment With Body Profile Enhancement Features	**DECISION ON PETITION**

This is in response to the petition applicant filed on July 30, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900 Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

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Alexandria, VA 22313-1450
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Mailed : 11/22/05

In re Application of	:	DECISION ON
Klaus Fischer et al.	:	PETITION
Serial No. 10/093,970	:	
Filed: March 11, 2002		

For: PROCESS FOR STABILIZING THE WHITENESS OF LIGNIN CONTAINING FIBROUS MATERIALS, STABILIZER COMPOSITION AND FIBROUS MATERIALS STABILIZED WITH THIS

This is a decision on the PETITION UNDER 37 CFR 1.44 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed April 13, 2004.

On April 13, 2004, a two way restriction and requirement for two separate election of species was made by the examiner. In a response filed May 17, 2004, Applicant's elected the first group without traverse and traversed the election of species requirement. The examiner made the restriction final in an office action mailed August 10, 2004.

On December 9, 2004, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not established that the species represent independent and distinct inventions.

DECISION

Sections 803 and 803.02 of the MPEP state:

803 Restriction - When Proper
Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - §

803.02 Restriction – Markush Claims
If the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they are directed to independent and distinct inventions.

*****

This subsection deals with Markush-type generic claims which include a plurality of alternatively usable substances or members. In most cases, a recitation by enumeration is used because there is no appropriate or true generic language. A Markush-type claim can include independent and distinct inventions. This is true where two or more of the members are so unrelated and diverse that a prior art reference anticipating the claim with respect to one of the members would not render the claim obvious under 35 U.S.C. 103 with respect to the other member(s). In applications containing claims of that nature, the examiner may require a provisional election of a single species prior to examination on the merits. The provisional election will be given effect in the event that the Markush-type claim should be found not allowable. Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. If the Markush-type claim is not allowable over the prior art, examination will be limited to the Markush-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration.

The first election of species requirement, i.e., election of one of the sulfur compounds (i) – (iv), will be addressed first. The petitioner has argued that the four species of sulfur compounds are not independent and distinct. First, it is noted that MPEP 803 requires that the inventions be independent or distinct. On its face, the restriction requirement appears to meet the necessary requirement for restriction as set forth in the above mentioned sections of the manual. The sulfur compounds have been claimed as a Markush-type generic claim, including a plurality of alternatively usable substances or members. The compounds claimed encompass a large number of compounds. A partial listing of the search for all the claimed species includes classes 540, 544, 545, and 546. Therefore, search and examination of all the claimed species cannot be conducted without serious burden. As the compounds can be alternatively used as preservatives for paints and fabric treatments, they can be shown to be distinct as well. Therefore, the requirement for election of one of the sulfur compounds (i) – (iv) is proper.

With respect to the second election of species requirement argued by the petitioner, i.e., the election between non-coated fiber material and coated fiber material, it is noted that on page 13 of the response filed May 17, 2004, applicants stated that "the two aspects of a coated fiber and a non-coated do not establish that it is a distinct and independent invention. It is but one invention and each would be obvious over the other." This statement was acknowledged by the examiner in the office action mailed August 10, 2004. Therefore, it appears that this requirement has been withdrawn by the examiner. Note, however, that as applicants have admitted on the record that these species are obvious variants, such admission may be used in a rejection under 35 U.S.C. 103(a), as detailed in the office action mailed April 13, 2004.

Accordingly, the petition for withdrawal of the restriction requirement is **DENIED.**

JMstone

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

SMITH, GAMBREKK & RUSSELL, LLP
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
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Paper No. 5

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SUITE 2800
NEW YORK NY 10111

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OFFICE OF PETITIONS

In re Application of	:	
Asami, et al.	:	
Application No. 10/093,986	:	ON PETITION
Filed: March 8, 2002	:	
Attorney Docket No. 10830-096001	:	

This is a decision on the petition under 37 CFR 1.137(a), filed January 29, 2004, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed April 11, 2002. This Notice set a period for reply of two months to submit substitute drawings. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on June 12, 2002. A Notice of Abandonment was mailed on January 21, 2004.[1]

Petitioner contends that he did timely file substitute drawings in response to the Notice to File Corrected Application Papers. In support thereof, petitioner has included a copy of postcard receipt, itemizing "Drawings (formal, 2 sheets)" and bearing a USPTO date stamp of May 2, 2002.

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[1] The Notice of Abandonment incorrectly informed applicants that the application was abandoned for failure to file a reply to a Notice to File Missing Parts of Nonprovisional Application. A review of the application file does not indicate that such notice was mailed in this application.

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

In view thereof, **the holding of abandonment is withdrawn.**

Given the basis for granting this decision, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 6/29/05

TO SPE OF : ART UNIT 2673

SUBJECT : Request for Certificate of Correction on Patent No.: 6853363 B2

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

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext113

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

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

Comments:

Approved Fig. 1 – Jeff Pizial 7/25/06
Art Unit 2629

BIPIN SHALWALA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

AU 2629

Art Unit

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OFFICE OF PETITIONS

In re Application of	:	
IVERSON, et al.	:	
Application No. 10/094,016	:	DECISION ON PETITION
Filed: March 7, 2002	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 18, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 26, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed July 26, 2006 . Accordingly, the date of abandonment of this application is October 27, 2006 .

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica Graves at (571) 272-7253.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Paper No. 7

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PALO ALTO CA 94306

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APR 0 7 2003

OFFICE OF PETITIONS

In re Application of
Zehavi et al
Application No.10/094,028
Filed: March 8, 2002
Attorney Docket Number: MOBI-002/02US

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

This is in response to the petition under 37 C.F.R. §1.47(b), filed November 12, 2002.

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

The above-identified application was filed on March 8, 2002, without an executed oath or declaration, and naming Ephraim Zehavi and Ido Bettesh as co-inventors. Accordingly, on April 11, 2002, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition (and fee), the surcharge for late filing of the declaration, a declaration and a five month request for extension of time.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish (1), (2), and (6).

Proof of Refusal to Sign the Oath or Declaration

As to item (1), It is not clear in the documents presented whether Rule 47 applicant is arguing non-signing inventor Zehavi can not be reached or that Zehavi refuses to sign the oath or declaration. If it is rule 47 applicant's contention Zehavi 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 non-signing inventor? Was an electronic search conducted to locate the last known address? The statements made in the petition do not illustrate "diligent effort" was made to locate inventor Zehavi. 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 is aware the non-signing inventor can not be reached at the address provided in the affidavit, applicant should make a showing that diligent effort has been made to locate the 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.

If applicant contends both inventors have refused to execute the application papers, rule 47 applicant has failed to show that inventors Zehavi and Bettesh refused to sign the declaration after having been presented with the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The Affidavit in support of the petition and the copies of correspondence indicates only the declaration and assignment documents were sent to both inventors. Both inventors must be presented with the opportunity to sign the application papers before rule 47 status will be granted.

An Acceptable Oath or Declaration

As to item (2), although rule 47 applicant submitted the $65 surcharge fee for the submission of a late oath or declaration, Applicant failed to submit an oath or declaration in compliance with 37 CFR 1.63. The granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. An officer of a corporation normally is required to sign the oath or declaration. The declaration required must state the full name, residence, post office address, and citizenship of the non-signing inventor. Also the title or position of the applicant must be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b).

Showing That Such Action Is Necessary to Preserve the Rights of Parties or to Prevent Irreparable Damage.

As to item (6), applicant has failed to provide a statement that the granting of rule 47 status is necessary to preserve the rights of the rule 47 applicant or prevent irreparable damage. See MPEP 409.03(h).

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 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

COOLEY GODWARD, LLP
3000 EL CAMINO REAL
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PALO ALTO, CA 94306

In re Application of
Ephraim Zehavi and Ido Bettesh
Application No.10/094,028
Filed: March 8, 2002
Attorney Docket Number: MOBI-002/02US
Title of Invention: WIRELESS RECEIVER WITH ANTI-JAMMING

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

This is in response to the renewed petition for status under 37 C.F.R. §1.47(b), filed June 6, 2003.

The petition is **GRANTED**.

The above-identified application was filed on March 8, 2002, without an executed oath or declaration, and naming Ephraim Zehavi and Ido Bettesh as co-inventors. Accordingly, on April 11, 2002, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of persons with first hand knowledge and documentary evidence, demonstrated that the non-signing inventor has been presented with a copy of the application papers for signature and that he has refused by his conduct to sign the declaration. Applicant submitted the declaration of Gregory A. Zafiris, Vice President and Senior Counsel of Mobilian Corporation applicant corporation. This declaration has been reviewed and is found in compliance with 1.63 and 1.64. Applicant paid the petition fee and included a statement of the non-signing inventors' last known address in the petition. Gregory A. Zafiris has made a statement of irreparable harm.

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

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

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

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[1] A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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PALO ALTO, CA 94306

MAIL

MAY 2 8 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Zehavi, et al
Application No. 10/094,028
Filed: March 8, 2002

For: **SYSTEM FOR REMOTELY CONTROLLING CLIENT RECORDING AND STORAGE BEHAVIOR**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as Attorney/Agent and change of address filed on May 14, 2004.

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

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All Attorneys/agents associate with Customer Number 23419 are withdrawn.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

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

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AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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JUN 5 2002

ROBERT D. FISH
SUITE 706
1440 N. HARBOR BLVD.
FULLERTON CA 92835

#4

In re Application of
Robert Tam
Serial No.: 10/094,0323
Filed: March 8, 2002
Attorney Docket No.: 100330.213102

: PETITION TO MAKE SPECIAL

This is in response to applicant's petition filed March 8, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefor the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

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

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In re Application of	:	
Mekkittikul et al.	:	
Application No. 10/094,035	:	DECISION GRANTING PETITION
Filed: March 7, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. LANT-P006	:	

This is a decision on the petition, filed May 13, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 2, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 16, 2004 accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2153 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after September 28, 2004 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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MAIL

APR 0 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of:
Mekkittikul
Application No. 10/094,035
Filed: March 7, 2002
For: METHOD AND SYSTEM FOR BANDWIDTH ALLOCATION TRACKING IN A PACKET DATA NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 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 signer of the petition, James P. Hao is not appointed as an attorney or agent of record. Therefor he is not authorized to act on behalf of the attorneys or record, nor can he effect a change of address.

The Power of Attorney by Assignee of Entire Interest (Revocation of Prior Powers) dated 21 March 2005 has been entered and accepted in this file.

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

All future communications from the Office will be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the Power of Attorney dated 21 March 2005.

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

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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6/10/08

Patent No. :7307608
Ser. No. :10094070
Inventor(s) :Stephenson et al.
Issued : 12/11/07
Title : UNIPOLAR DRIVE FOR CHOLESTRIC LIQUID CRYSTAL DISPLAYS
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
40l 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

AKIN GUMP STRAUSS HAUER & FELD LLP
Two Palo Alto Square,
3000 El Camino Real, Suite 400
Palo Alto, CA 94306-2112

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Akin Gump LLP - Silicon Valley
3000 El Camino Real
Two Palo Alto Square, Suite 400
Palo Alto, CA 94306

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OFFICE OF PETITIONS

In re Patent No. 7,307,608	:	
Issue Date: December 11, 2007	:	
Application No. 10/094,070	:	ON PETITION
Filed: March 8, 2002	:	
Patentee(s): Stanley W. Stephenson, et. al.	:	

This is a decision on the petition filed September 9, 2008, which is being treated as a request under 37 CFR 3.81[1], to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The instant request is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Andrew T. Spence 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. If Mr. Spence desires to receive future correspondence regarding this patent, 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 patent file will be directed solely to the address of record until otherwise instructed.

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

cc: Andrew T. Spence
Alston & Bird, LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

[1] *See Official Gazette of June 22, 2004*

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AUG 10 2004

MILLEN, WHITE, ZELANO &
BRANIGAN, P.C.
ARLINGTON COURTHOUSE PLAZA 1,
SUITE 1400
2200 CLARENDON BOULEVARD
ARLINGTON , VIRGINIA 22201

In re Application of	:
Youmin Shu et al	:
Serial No.: 10/094,092	: PETITION DECISION
Filed: March 11, 2002	:
Attorney Docket No.: ORIGEN-0039	:

This is in response to the petition under 37 CFR 1.181, filed May 5, 2004, for withdrawal of abandonment of the above identified application based on failure to receive an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on September 15, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply the Office mailed a Notice of Abandonment to applicants on April 26, 2004. Applicants state that the Office action was never received and provide a statement and copies of docket records establishing that the Office action was never received. In view of the evidence presented the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of a new Office action.

Should there be any questions about this decision please contact Jean F. Vollano by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0648 or by facsimile sent to the general Office facsimile number.

Bruce Kisliuk
Director, Technology Center 1600

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TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

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OFFICE OF PETITIONS

In re Application of	:	
Li Li et al	:	
Application No. 10/094,103	:	DECISION GRANTING PETITION
Filed: March 8, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2269-6900.2US	:	

This is a decision on the petition, filed August 11, 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 28, 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 1746 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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).*

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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ELLSWORTH R. ROSTON, ESQ.
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	:	
Tomkow, et al.	:	
Application No. 10/094,112	:	DECISION ON PETITION
Filed: March 8, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. RPOST-60121	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 1, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed August 18, 2005.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to the Petitions Attorney Edward Tannouse at (571) 272-3228. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2142 for appropriate action on the amendment filed August 18, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

AUG 21 2002

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

#6

In re Application of	:
Robert Redmond et al	:
Serial No.: 10/094,120	: PETITION TO MAKE SPECIAL
Filed: March 8, 2002	:
Attorney Docket No.: 910000.2012.2	:

This is in response to applicants' petition filed July 2, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d) and M.P.E.P 708.02, part XII.

The petition is **DENIED**.

Applicants rely on M.P.E.P. 708.02(XII) as the basis for justifying making the application special. This section relates to applications relating to biotechnology and wherein applicants are a small entity. While applicants make the required assertions relating to small entity status, the technology being a major asset of the entity or inventors and delay in the development or manufacture will occur if not granted, the petition fails since neither the application nor the claims are directed to biotechnology. All of the claims are directed to methods of fostering would healing. Biotechnology, as interpreted by the Office, relates to those inventions dealing with DNA, genetic sequences, etc., rather than inventions directed to wound healing, etc.

The application will be taken up for action in the normal order.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
Van Der Schaar :
Application No. 10/094,123 :
Filed: March 8, 2002 :
Attorney Docket No. **US 020073** :
For: METHOD AND APPARATUS TO EXECUTED A SMOOTH TRANSITION BETWEEN FGS ENCODED STRUCTURES

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed February 11, 2005, which set a shortened statutory period for reply of three (3) months. Petitioner obtained a three month extension of time under the provisions of 37 CFR 1.136(a) and filed a RCE on August 15, 2005 (certificate of mailing date August 11, 2005). The RCE was improper, as was pointed out in the December 20, 2005 Notice of Abandonment. Accordingly, the application became abandoned on August 12, 2005.

Petitioner has submitted an amendment in reply to the February 11, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the February 11, 2005 non-final Office action, and the required petition fee.

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 or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center AU 2621 for consideration of the amendment filed on May 3, 2006.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: PAUL A. SCHWARZ, ESQ.
DUANE MORRIS, LLP
P.O. BOX 5203
PRINCETON, NJ 08543-5203

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

Scott J. Fields
Obermayer Rebmann Maxwell & Hippel
One Penn Center, 19th Floor
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103

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JAN 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Paul Adams :
Application No. 10/094,150 : ON PETITION
Filed: March 8, 2002 :
Attorney Docket No. 65880-003 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 23, 2002, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the 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. Accordingly, the above-identified application became abandoned on June 9, 2002.

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).

Petitioner submitted a payment totaling $1065, $640 for the petition fee and $425 for the filing fee and late surcharge. The $640 petition fee and $370 filing fee has been processed. However, the payment lacks the total amount required to complete the payment for the $65 late surcharge. Accordingly, a balance of $10 is due to complete the payment.

In order to expedite a decision on the petition, petitioner may wish to consider submitting the response to the address listed below and to the attention of the undersigned.

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

By mail: Office of Petitions
Assistant 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 concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Scott J. Fields
Obermayer Rebmann Maxwell & Hippel
One Penn Center, 19th Floor
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103

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FEB 07 2003

OFFICE OF PETITIONS

In re Application of	:	
Paul Adams	:	
Application No. 10/094,150	:	ON PETITION
Filed: March 8, 2002	:	
Attorney Docket No. 65880-003	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 31, 2003, to revive the above-identified application.

The petition is **GRANTED**.

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

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

Latrice Bond

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

37

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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062006

Jerry W. Mills, Esq.
Baker Botts L.L.P.
Suite 600
2001 Ross Avenue
Dallas TX 75201-2980

JUN 26 2006

In re Application of:
BILLY D. ABLES ET AL.
Serial No.: 10/094,174
Filed: March 8, 2002
Docket Number: 004578.1224

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on August 9, 2004, to withdraw the holding of abandonment of the above-identified application under 37 C.F.R. § 1.181.

The petition is **GRANTED**.

A final Office action was mailed on October 24, 2002, setting a three-month shortened statutory period for reply. A Notice of Abandonment was mailed on June 24, 2004.

Petitioner asserts that a reply was not required because during several conversations with the examiner and her supervisors, it was agreed that the final Office action of October 24, 2002 was withdrawn and a new Office action would be issued. In support of the assertion that a reply was not required, petitioner refers to the status inquiry filed April 15, 2003, via facsimile transmission, wherein petitioners requests for the status of the application and summarizes the agreement reached between the petitioner and SPE Talbot during a telephone conversation on December 4, 2003 [sic, 2002] that the objection to claim 1, the sole independent claim, was withdrawn and that the prior art to Murata relied upon in the rejection did not disclose a "hermetic" seal set forth in claim 1. Further, the examiner of record also contacted the petitioner on December 13, 2002 to inform petitioner that the final Office action had been withdrawn.

A review of the file record reveals that an after-final amendment was filed on November 5, 2002 and an Advisory Action was mailed on November 15, 2002.

A first Status Inquiry was filed on April 15, 2003, wherein it is indicated that there were three telephone conversations with the examiner and her supervisory patent examiner (SPE) and that

there was an agreement reached therefrom to withdraw the final Office action and to issue a new Office action.

A Second Status inquiry was filed on November 26, 2003, wherein it was further indicated that the examiner of record called the petitioner on June 5, 2003, upon receipt of the first Status Inquiry to inform petitioner that an Office action would be issued with the next couple of days. The examiner then called petitioner on August 12, 2003 to indicate that an Office action would be mailed within a week. The examiner called again on September 4, 2003 to indicate that the application had been assigned to new SPE Cuneo who wanted to know reasons why the application should not have been held abandoned. On September 5, 2003, petitioner explained to SPE Cuneo over the telephone the reasons why this application was not abandoned and was promised a call back if the SPE had any further question otherwise an Office action would be issued by the examiner.

A third Status Inquiry was filed on June 8, 2004 because no further communication from the Office had been received by petitioner since the conversation of September 5, 2003.

The petition further asserts that, during a follow up conversation on June 14, 2004 between the examiner and petitioner's legal assistant, Ms. Glenda Orrantia, the examiner indicated that she had been out due to a lengthy illness and had not taken any further action on the application. There were several subsequent telephone calls from the examiner to inform Ms. Orrantia that she had not discussed the application with her SPE. On June 23, 2004, the examiner called to indicate that he had tender her resignation but would discuss the application with her SPE. A declaration by Ms. Orrantia was filed in support of the assertion that the conversations in fact took place and the subject matter discussed.

On June 24, 2004, a Notice of Abandonment was issued because no proper reply to the final Office action was filed.

Although the record does not include any interview summary by the examiner or her SPE to indicate that an agreement was reached to withdraw or vacate the final Office action of October 24, 2002, it is sufficiently clear that an agreement was reached to withdraw the final Office action because, among other the facts and circumstances, the prior art to Murata as applied in the final rejection under 35 USC 102(b) of claim 1 does not explicitly disclose a hermetic seal as set forth in the claim and the examiner did not assert in the final Office action that the seal of Murata was inherently hermetic.

Due to the special circumstances surrounding the prosecution of the instant application and for the above-stated reasons, the holding of abandonment is hereby withdrawn and the Notice of Abandonment vacated.

The application is being referred to the art unit for further action. An Office action will be issued in due course. Inconvenience to the applicant is regretted.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

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

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Paper No. 11

THOMAS C. PONTANI
COHEN PONTANI LIEBERMAN & PAVANE
551 FIFTH AVENUE, SUITE 1210
NEW YORK, NY 10176

COPY MAILED
JUN 1 6 2004
OFFICE OF PETITIONS

In re Application of	:	
Szadkowski, et al.	:	
Application No. 10/094,186	:	ON PETITION
Filed: March 8, 2002	:	
Attorney Docket No. 4452-635	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed April 24, 2003. Accordingly, this application became abandoned on July 25, 2003. A Notice of Abandonment was mailed on December 1, 2003.

The file is being forwarded to Technology Center 3600 for review of the amendment filed May 28, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 13, 2006

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/094191 Patent No.: 6,960,580

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: _____

SPE

1624

Art Unit

PTOL-306 (REV. 7/03)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/094,228	03/08/2002	Bill L. Miller	LL11.12-0066	6536

164 7590 01/15/2004

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

EXAMINER
LEVY, NEIL S

ART UNIT	PAPER NUMBER
1616	

DATE MAILED: 01/15/2004

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

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JAN 14 2004

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

In re Application of	:
Bill L. Miller	:
Serial No.: 10/094,228	: PETITION DECISION
Filed: March 8, 2002	:
Attorney Docket No.: LL11.12-0066	:

This is in response to the petition under 37 CFR 1.144, filed November 15, 2003, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 USC 111 on March 8, 2002, and contained claims 1-76. In a first Office action, mailed May 21, 2003, the examiner required restriction between the claims, as follows:

Group I – Claims 1-5, 62-65, drawn to feeding methods;
Group II – Claims 6-61, drawn to testing methods;
Group III – Claims 66-72, drawn to compositions.

The examiner inadvertently failed to include claims 73-76 as part of Group III. The examiner reasoned that the inventions were related as product and process of use and were distinct as shown by their different utilities and classifications. In addition, the examiner set forth several requirements for election of species

Applicant replied on July 21, 2003, electing Group I with traverse and vigorously traversing both the restriction requirement and election of species requirements. Applicant disagreed with the examiner's classification of the three groups and especially with the requirement for an election of species where only one member of a species was set forth.

The examiner mailed a new Office action to applicant on September 2, 2003, repeating and maintaining the restriction requirement for essentially the same reasons as previously set forth and making it Final. The examiner rejected claims 62-65 under 35 USC 112, second paragraph,

as indefinite, and further rejected claim 62 under 35 USC 102(b) as anticipated by WO 96/32849 and claims 1-5 and 62-65 under 35 USC 103(a) as unpatentable over WO 96/32849 and McGill.

Applicant then filed this petition on November 15, 2003. Applicant also filed a reply to the Office action on December 2, 2003, which has not yet been considered by the examiner.

DISCUSSION

Applicant's first argument with regard to the restriction requirement is that there are not three distinct inventions claimed. Applicant argues that conducting a prior art search for all claims is not an unreasonable burden on the examiner since the claims are all related to each other. A review of the claims shows that there are three distinct claim sets. The first is to the feeding of "ruminants" (meaning more than one ruminant or one type of ruminant) and are expressed in claims 1-5 and 62-65. The second claim set, claims 6-61, is to the feeding of a "first ruminant", implying that a second ruminant is also being fed and in the dependent claims requires that the second ruminant be fed different feed; most of these claims also express a comparative result. Claim set three, claims 66-76, is to the feed composition(s) per se. It can be clearly seen that the composition, per se, is independent of the method of use (feeding) claimed inasmuch as the feed composition could be fed to non-ruminants as well as to ruminants. Thus restriction between Group III and Groups I and II as set forth by the examiner is proper. The determination that Groups I and II are separate and/or independent inventions is less clear since they are both to methods of feeding ruminants. Were the claims drawn to a method of producing a specified beneficial result, such as enhanced weight gain, no distinction between a method of feeding and a method of feeding to produce a specified result would be seen. However, both sets of claims express essentially the same result – i.e. enhanced weight gain in the ruminant fed the identified supplement, with the one set including a standard against which the enhancement is measured. Thus the claims of Groups I and II are not distinct and separate, but one invention and variations thereof which are not patentably distinct and should be rejoined.

Applicant's use of the classification manuals and class definitions to provide support for arguments that the inventions are not distinct is noted, as is the examiner's classification of the respective groups. While classification of identified inventions is important and can be used to show distinctness of inventions as well as burden on the Office, it is not dispositive of either, only an indicator. It is noted that each of the groups of claims could be differently classified based on the contained subject matter as could the claims within a particular group. While there is a hierarchy to the classification schedules for purposes of determining primary (issuing) classification, it is common to find that inventions may be classified in a number of different subclasses and/or classes based on different aspects of a claim. To use applicants' example, psyllium (one of the identified feed supplements) is not a protein and does not fall under class 514, subclass 2. However, milk replacer, (another feed supplement) is a protein and would cause the claims to be considered for classification in 514/2. Not all of the feed supplements have to be proteins for the claims to be primarily classified in 514/2. However, the examiner's mere assignment of separate classifications without further explanation is not sufficient to support the restriction requirement between Groups I and II. Further the characterizing of Group II as a method of testing is improper as it is not defined as a method of testing, but as a method of feeding, comparative test results being included as part of the claim.

The examiner's argument in rebuttal to the traverse of the restriction requirement by applicant lacks credence as argued by applicant. Obviously a method of feeding various types of animals by adding a specific supplement to the base feed can be practiced with many supplements and many different types of animals. However, the claims in this application are restricted to one type of animal and a limited number of feed supplements. Thus the examiner's argument that the feeds could be beneficial to other animals, but may not produce the same results and are, here, inapposite. "Probiotics" as relied on by the examiner does not enter into the scene here.

However, applicant's argument that the term "ruminant ration" restricts the claimed feed product of Group III to use with only ruminants is not well taken. A feed ration is just that and can be used in feeding any type of animal, including ruminants, whether it is beneficial or not. If applicant's argument were accepted, the same ration could be claimed as a "feline ration" and thus be considered different from a "ruminant ration". This would be tantamount to claiming that a ceramic vase is different from a ceramic cup even though the shape, structure and materials used in the making thereof are identical except for the intended use to hold flowers or coffee. The examiner's reasoning that Group III is separate and distinct from Groups I and II is proper.

With respect to the election of species requirements set forth in the first Office action, applicant is correct that they are not well taken and not properly supported. Applicant has used such terms as "milk replacer" without further definition. Such term includes all possible compounds or compositions within its scope which qualify as a "milk replacer" and does not support a species requirement since no particular species are mentioned. The same arguments are valid for all other species elections set forth.

DECISION

The petition is **GRANTED-IN-PART** to the extent that original Groups I and II are rejoined as claims directed to a single invention; Group III, claims 66-76, remain withdrawn from consideration as directed to a separate and distinct invention. The elections of species requirements are all withdrawn.

The application will be forwarded to the examiner for consideration of applicant's reply to the last Office action and examination of all claims of former Groups I and II, claims 1-65.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number.

John Doll
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20051102

DATE : November 2, 2005

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction on Patent No.: 6756287 B2

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

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

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: Carl whitehead **Art Unit** 2813

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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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OFFICE OF PETITIONS

In re Application of Timothy Renouf Application No. 10/094,241 Filed: March 8, 2002 Attorney Docket No. 4362-4005	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of January 22, 2004 is accepted as having been unintentionally delayed.

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

The application file is being forwarded to Technology Center AU 2124.

Karen Creasy

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

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OFFICE OF PETITIONS

In re Application of	:
Timothy Renouf	:
Application No. 10/094,241	: DECISION GRANTING PETITION
Filed: March 8, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4362-4005	:

This is a decision on the petition, filed January 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 November 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 2193 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) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

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OFFICE OF PETITIONS

In re Application of
David L. Henrickson et al
Application No. 10/094,251
Filed: March 8, 2002
Attorney Docket No. 317066.01

ON PETITION

This is a decision on the petition filed December 8, 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 submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed August 7, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 8, 2008.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

GEORGE E. HEIBEL, PH.D.
Fish & Richardson P.C.
Suite 2800
45 Rockefeller Plaza
New York, NY 10111

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SEP 0 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Nakazato et al.	:	
Application No. 10/094,264	:	DECISION ON
Filed: March 8, 2002	:	PETITION
Attorney Docket No. 10891-005002	:	

This is a decision on the petition under 37 CFR 1.181 filed June 24, 2002, to establish that a four page declaration was part of the originally filed application.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

On March 8, 2002, the application was filed.

On April 15, 2002, the Office of Initial Patent Examination mailed a "Notice of Missing Parts" stating that an oath or declaration was missing.

In response, the present petition was filed alleging that a four page declaration was deposited on March 8, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Combined Declaration and Power of Attorney (4 Pages)" on March 8, 2002.[1]

Upon review of the record, the declaration, deposited on March 8, 2002, has not been located. However, the evidence is convincing that the application papers deposited on March 8, 2002, included a four page declaration, and that the declaration was subsequently misplaced in the PTO.

In view of the above, the petition would normally be granted.. Unfortunately, a copy of the declaration has not been supplied and therefore the petition cannot be granted at this time. A request for reconsideration accompanied by a copy of the declaration should be filed.

---

[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.

No petition fee is required and none has been charged.

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
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GEORGE E. HEIBEL, PH.D.
Fish & Richardson P.C.
Suite 2800
45 Rockefeller Plaza
New York, NY 10111

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OCT 0 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Nakazato et al.	:	
Application No. 10/094,264	:	DECISION ON
Filed: March 8, 2002	:	PETITION
Attorney Docket No. 10891-005002	:	

This is a decision on the renewed petition under 37 CFR 1.181 filed September 17, 2002, to establish that a four page declaration was part of the originally filed application.

The petition is **granted**.

On March 8, 2002, the application was filed.

On April 15, 2002, the Office of Initial Patent Examination mailed a "Notice of Missing Parts" stating that an oath or declaration was missing.

In response, a petition was filed alleging that a four page declaration was deposited on March 8, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Combined Declaration and Power of Attorney (4 Pages)" on March 8, 2002.[1]

Upon review of the record, the declaration, deposited on March 8, 2002, has not been located. However, the evidence is convincing that the application papers deposited on March 8, 2002, included a four page declaration, and that the declaration was subsequently misplaced in the PTO.

No petition fee is required and none has been charged.

The Notice of Missing Parts mailed April 15, 2002, is **vacated**.

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

---

[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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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Application of	:
Gerard Marbach	:
Application No. 10/094,293	: DECISION ON PETITION
Filed: March 8, 2002	: UNDER 37 CFR 1.181
Attorney Docket No. 33353/184264	:

This is a decision on the petition filed August 31, 2006, under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **dismissed**.

Any request for reconsideration should be filed within **two (2) months** from the mailing date of this decision. *Note* 37 CFR 1.181(f).

This application was held abandoned for failure to timely reply to the Notice To File Missing Parts Of Nonprovisional Application (Notice) mailed April 10, 2002. Applicant was given TWO MONTHS from the mail date of the Notice to reply.

A review of the file record indicates that a reply was received on May 23, 2002. The transmittal letter submitted with the reply indicates that a declaration was enclosed. However, a review of the file record does not show that a signed declaration was submitted with the papers on May 23, 2002. Additionally, the copy of the declaration submitted with the petition on August 31, 2006 is not signed.

In view of the above the preponderance of evidence submitted has not met the burden of proof to substantiate that a signed declaration was ever submitted. Therefore, the petition to withdraw the holding of abandonment cannot be granted at this time.

Petitioner may wish to consider filing a petition under the unintentional provisions of 37 CFR 1.137(b). Public Law 97-247, which revised patent and trademark fees, 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." See 37 CFR 1.137(b) in effect as of December 1, 1997. *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).* An "unintentional" petition must be accompanied by the required petition fee.

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement of unintentional delay is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JOHN S. PRATT, ESQ.
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET, SUITE 2800
ATLANTA GA 30309

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Gerard Marbach	:
Application No. 10/094,293	:
Filed: March 8, 2002	:
Attorney Docket No. 33353/184264	:

This is a corrected decision on the petition, filed August 31, 2006, and supplemented by a second submission, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely reply to the Notice To File Missing Parts Of Nonprovisional Application (Notice) mailed April 10, 2002. Applicant was given TWO MONTHS from the mail date of the Notice to reply.

The petition states that a reply was timely submitted on May 23, 2002. Petitioner has submitted evidence to support the above matter.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status. Additionally, the Office letter mailed January 30, 2007, is hereby vacated.

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

This matter is being forwarded to the Office of Initial Patent Examination for further preexamination processing.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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SUITE 2800
725 SOUTH FIGUEROA STREET
LOS ANGELES CA 90017-5406

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ON PETITION

In re Application of	:
Katsumaru Sasaki et al	:
Application No. 10/094,296	:
Filed: March 8, 2002	:
Attorney Docket No. PW 0284611	:

This is a decision on the petition, filed May 24, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

P titioner 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 2835 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

ALTON W. PAYNE
SUITE 200
5001 BISSONNET
BELLAIRE TX 77401

COPY MAILED

NOV 30 2004

OFFICE OF PETITIONS

In re Application of	:	
Daniel E. Davis	:	
Application No. 10/094,341	:	ON PETITION
Filed: March 8, 2002	:	
Attorney Docket No. DAV12	:	

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

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 10/920,427, filed August 17, 2004 .

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

The application file is being forwarded to Files Repository.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TIMOTHY A. CHEATHAM, ESQ.
CABOT CORPORATION LAW DEPARTMENT
157 CONCORD ROAD
BILLERICA MA 01821-7001

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Rex J. FIELD	:	
Application No. 10/094,382	:	DECISION ON PETITION
Filed: March 08, 2002	:	
Attorney Docket No. **GEL01001CON**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 02, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 05, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 06, 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 response to the non-final office action of April 05, 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. 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 1796 for appropriate action on the concurrently filed amendment.

David Bucel
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711

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DEC 04 2003
OFFICE OF PETITIONS

In re Application of
Chi-Ming Che et al.
Application No. 10/094,384
Filed: March 8, 2002
Attorney Docket No. 009661-0016-999
Title: ORGANOMETALLIC LIGHT-EMITTING MATERIAL

DECISION ON PETITION

This is a decision on the "Petition under 37 C.F.R. §1.10(c) to accord U.S.P.S. deposit date as filing date," received on September 22, 2003, which is properly treated as a petition under 37 C.F.R. §1.10, requesting that amendment A be accorded a deposit date of August 18, 2003. The Amendment was accorded a date of deposit of August 19, 2003.

On August 19, 2003, the above-identified amendment was received in the Office. The Office of Initial Patent Examination mailed petitioner's return postcard receipt, indicating that the amendment had been accorded the date of receipt as the deposit date.

In response, on September 22, 2003, applicants filed the present petition. Petitioners have included a copy of the Express Mail Label having a number of EV335856560US. Applicants request that the application be accorded a deposit date of August 18, 2003.

A check of the Office's Express Mail Finder Database was inconclusive. A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) shows that the package was accepted on August 18, 2003. A copy of the later search result is enclosed.

Upon review of the record, the amendment received a deposit date of August 19, 2003. However, the evidence is convincing that the amendment was deposited on August 18, 2003, and the incorrect date was subsequently assigned to the paper. Therefore, the application was entitled to a deposit date of August 18, 2003.

Accordingly, the petition is **GRANTED.**

Petitioner's Deposit Account has not been charged.

The application file is being returned to the Office of Initial Patent Examination for further processing with a deposit date for Amendment A of August 18, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski

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

Encl. Copy of USPS Express Mail Printout (Paper No. 9)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-30-9

Paper No.: _____

TO SPE OF : ART UNIT 1746

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/094391 Patent No. 6720368

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

FOR IFW FILES: Should coc be approved

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

C 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.

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

Comments: _____

_____

_____

_____

_____

[signature] 1756
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

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

COPY MAILED

DEC 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Charles Anthony Seiber, et al.	:	
Application No. 10/094,395	:	ON PETITION
Filed: March 8, 2002	:	
Attorney Docket No. 871462.00005	:	

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

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an Amendment (Restriction Requirement); (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed October 11, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 3600, Art Unit 3677 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAY 12 2004

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

In re Application of	:
TIAN et al.	:
Serial No.: 10/094417	:WITHDRAWAL OF ABANDONMENT
Filed: March 8, 2002	:
Attorney Docket No.: 01871-008110US	:

This is in response to applicant's petition under 37 CFR 1.181(a), filed January 07, 2004, requesting withdrawal of the holding of abandonment.

The Petition to Withdraw the Holding of Abandonment was received. However, it is **DISMISSED** in view of the Office Letter mailed March 08, 2004. The Office Letter states that the holding of abandonment mailed December 15, 2003, has been withdrawn. The copy or original response filed June 09, 2003, has been made of record in the file.

The application has been returned to pending status.

Should there be any questions with regard to this letter please contact Special Program Examiner Julie Burke by letter addressed to the Director, Technology Center 1600, PO Box 1450, Alexandria VA 22313-1450, or by telephone at (571) 272-0512 or by facsimile transmission at (703) 308-7230.

Jasemine C. Chambers

Jasemine Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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VENABLE LLP
P O BOX 34385
WASHINGTON, DC 20045-9998

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MAY 16 2006

OFFICE OF PETITIONS

In re Application of	:	
David S. Burt et al	:	
Application No. 10/094,424	:	DECISION ON PETITION
Filed: March 11, 2002	:	TO WITHDRAW
Attorney Docket No. 38585-179004	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2006.

The request is **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 G. Wiseman on behalf of all attorneys of record who are associated with Customer No. 26694. Accordingly, all attorneys/agents associated with Customer No. 26694 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time. Additionally, applicant is advised that a Request for Continued Examination was filed on December 7, 2005. Accordingly, the application will be taken up for further action by the examiner in the normal course of business.

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) the intervening assignee of the entire interest. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant. A courtesy copy of this communication is also being mailed to the current assignee of record and to the address noted on the withdrawal of attorney. However, if Seed Intellectual

Property Law Group PLLC desires to receive future correspondence in this application and to avoid abandonment by not receiving future communications which require a reply within a set period of time, it is recommended that the proper power of attorney documents be promptly submitted.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cd:

David S. Burt
23, Lesage Dollard-des-Ormeaux
Quebec, Canada H9A 1Z5

ID Biomedical Corporation of Quebec
7150 Frederick Banting, Suite 200
Ville St. Laurent, Quebec, Canada H4S 2A1

Seed Intellectual Property Law Group PLLC
701 Fifth Avenue
Suite 6300
Seattle, WA 98104-4895

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STRATEGIC PATENT GROUP, P.C.
P.O. BOX 1329
MOUNTAIN VIEW CA 94042

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Cronce et al.	:	
Application No. 10/094,435	:	ON PETITION
Filed: March 8, 2002	:	
Attorney Docket No. 2414P	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 5, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 3600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/21/07

TO SPE OF : ART UNIT 1641

SUBJECT : Request for Certificate of Correction on Patent No.: 7160723

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:
Applicant's corrections are consonant to the finally allowed Claims filed on 8/2/2006

SPE

1641
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2-19-08

Paper No.: ____

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 7230160 B1 / 10/094458

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

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

Should these claims be entered?

E. Jones

Thank You For Your Assistance

Certificates of Correction Branch 124
Tel. No. 703-308-9390 ext.

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:

Correction of minor errors introduced at time of printing.

EM

Anne Marie Grunberg
SPE

1638
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 12

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SEP 10 2004

OFFICE OF PETITIONS

SIMON, GALASSO & FRANTZ
P.O. BOX 26503
AUSTIN, TX 78755-0503

In re Application of
Wei-Meng Chee et al
Application No. 10/094,470
Filed: March 8, 2002
Attorney Docket No. 1461.0200009

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 6, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application, and on the petition under 37 CFR 1.78(a)(6) for the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application set forth in the amendment submitted with the instant petition.

The petition is **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
>
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant application was filed on March 8, 2002 and was pending at the time of filing of the instant petition. A reference to the prior-filed application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(3).

As to the benefit claim under 37 CFR 1.78(a)(6):

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

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior filed provisional application supplied in an application data sheet (ADS)37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on March 8, 2002. Intermediate Application No. 09/829,515 was filed within twelve months of provisional Application No. 60/258,144, which was filed on December 22, 2000, for which priority is claimed. A reference to the prior- filed applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. See 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed aplications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 2665 for processing the amendment submitted October 6, 2003, and for processing and consideration by the examiner of the claim under 35 U.S.C. §120 and 37 CFR 1.78(a)(2) for the benefit of prior-filed Application No. 09/829,515, filed April 9, 2001, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of prior-filed provisional Application No. 60/258,144, filed December 22, 2000.

Karen Creasy

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

cc:

BAKER BOTTS
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN, TX 78701-4039

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

WILSON HAM & HOLMAN
1811 SANTA RITA ROAD, SUITE 130
PLEASANTON CA 94566

MAILED

JUN 04 2010

OFFICE OF PETITIONS

In re Application of
Wei-Ming Chee et al.
Application No. 10/094,470
Filed: March 8, 2002
Attorney Docket Number: OPWR.199CIP1

ON PETITION

This is a decision on the petition, filed April 23, 2010 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned April 23, 2010 for failure to pay the issue fee in response to the Notice of Allowance mailed on January 22, 2010. Accordingly, the Notice of Abandonment was mailed on May 5, 2010, after the filing of the instant petition.

The issue fee in the amount of $1510, publication fee in the amount of $300 and the petition fee in the amount of $1620 have been charged to deposit account no. 50-3444 per the authorization included with the petition.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being 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

---

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060623

DATE : June 23, 2006

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction on Patent No.: 6,948,873

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: Justine Yu **Art Unit** 3751

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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YOUNG & BASILE, P.C.
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY, MI 48084-3107

COPY MAILED

SEP 1 8 2002

OFFICE OF PETITIONS

In re Application of
Nicholas A. French
Application No. 10/094,497
Filed: March 8, 2002
For: CRATE LOCKING DEVICE

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed July 15, 2002 (Certificate of Mailing date: July 8, 2002).

The petition is dismissed.

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

The above-identified application was filed on March 8, 2002 without an executed oath or declaration and naming Nicholas A. French as the sole inventors.

Accordingly, on April 10, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and surcharge for the late filing.

In response, on July 15, 2002, the instant petition; declaration of Andrew R. Basile; declaration of Darlene P. Condra; declaration of Donald Verna; declaration of Wayne C. Humphrey; the Declaration; the surcharge fee and one (1) month extension of time were filed. All of the aforementioned declarations contend the non-signing inventor has been presented with the application papers but refuses to sign the Declaration.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;

(2) an acceptable oath or declaration;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest; and

(6) proof of irreparable damage.

Applicant lacks item (2), as set forth above.

As to item (2), the Declaration submitted July 15, 2002, is unsigned. The Declaration must be signed by an officer of the corporation (president, vice president, secretary or treasurer) on behalf of, and as agent for, the non-signing inventor. The officer must identify his/her title in the Declaration. If the Declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted. See MPEP 409.03(b).

After this decision is mailed, petitioner's deposit account No. 25-0115, will be charged the required $130 petition fee.

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

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

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

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

Telephone inquiries related to this decision should be directed to Petitions Attorney Edward Tannouse at 703-306-9200.

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
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YOUNG & BASILE, P.C.
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY, MI 48084-3107

COPY MAILED

OCT 2 5 2002

OFFICE OF PETITIONS

In re Application of
Nicholas A. French
Application No. 10/094,497
Filed: March 8, 2002
For: CRATE LOCKING DEVICE

DECISION GRANTING PETITION
UNDER 37 CFR 1.47(b)

This is in response to the request for reconsideration of petition under 37 CFR 1.47(b), filed October 15, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declarations of Andrew R. Basile, Darlene P. Condra and Wayne C. Humphrey establish the inventor was presented a copy of the application papers as filed, but has refused the request that he sign the declaration. In addition, petitioner has shown that the Pinckney Molded Plastics, Inc. has a proprietary interest in the above-identified application with the copy of the "Offer of Employment" to Mr. French that indicates the inventor had an obligation to assign any patent rights to the Pinckney Molded Plastics, Inc. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage. The last known address of the on-signing inventor has been recorded from the Declaration submitted October 15, 2002.

This 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 and the Office of Initial Patent Examination is authorized to:

(1) accept this application under Rule 1.47(b);

(2) process the application with the inventor being Nicholas A. French and with the indication that the application was filed by the Pinckney Molded Plastics, Inc. as the party in interest under 35 U.S.C. § 118, inventor authority code 08;, using the Declaration filed on October 15, 2002; and

(3) mail a filing receipt with a filing date of March 8, 2002.

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

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

Telephone inquiries regarding this communication 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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NICHOLAS A. FRENCH
3031 LAKESHORE DRIVE
DOUGLAS, MICHIGAN 49406-0439

COPY MAILED

OCT 2 5 2002

OFFICE OF PETITIONS

In re Application of
Nicholas A. French
Application No. 10/094,497
Filed: March 8, 2002
For: CRATE LOCKING DEVICE

Dear Mr. FRENCH:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 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).

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

ANDREW R. BASILE
YOUNG & BASILE, P.C.
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY, MI 48084-3107

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 3 1 2006

OFFICE OF PETITIONS

Andrew R. Basile
YOUNG & BASILE, P.C.
3001 West Big Beaver Road, Suite 624
Troy MI 48084-3107

Paper No. 21

In re Application of	:	
French A. NICHOLAS	:	
Application No. 10/094,497	:	ON PETITION
Filed: March 8, 2002	:	
Attorney Docket No. PMP-196-B	:	

This is a decision on the petition under 37 CFR 1.137(b) filed September 26, 2005, to revive the above identified application, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the Notice of Abandonment mailed September 14, 2004.

The petition is **GRANTED**.

Petitioner requests the Notice of Abandonment mailed September 14, 2004 for failure to properly respond to the Final office action mailed September 4, 2003 be withdrawn as petitioner timely filed a response. As evidenced by the attached Request for Continued Examination with a certificate of mailing date of December 2, 2003 a response was timely filed.

The petition fee of $750.00 submitted with the petition on September 26, 2005 was unnecessary and will be credited to the petitioner's Deposit Account.

Telephone inquiries concerning this decision should be directed to Thu Nguyen at (571) 272-6051 or in her absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 3727 for appropriate action on the amendment filed on November 10, 2003.

Brian Hearn
Petitions Examiner
Office of Petitions

PATENT

ATTORNEY DOCKET NO. 05032-00016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Guillaume J.J.M. van Eijs et al.	Examiner: Shahnam J. Sharareh
Serial No.: 10/094,516	Art Unit: 1617
Filed: March 8, 2002	
Title: SMOOTH MUSCLE CELL PROMOTER AND USES THEREOF	

Assistant Commissioner for Patents
Washington, D.C. 20231

Attention: Refund Section, Office of Finance

TRANSMITTAL LETTER

In regard to the above identified application, we are transmitting herewith the attached:

1. Request for Refund.
2. Copy of the executed Assignment, and
3. Return postcard.

With respect to additional fees, the Commissioner is hereby authorized to credit overpayment in the amount of $627.00 to Deposit Account No. 19-0733, referencing USSN 10/094,516, attorney docket no. 05032-00016.

Respectfully submitted,

Dated: February 3, 2003

By

John P. Iwanicki, Reg. No. 34,628
BANNER & WITCOFF, LTD.
28 State Street, 28th Floor
Boston, MA 02109
(617) 227-7111

EV159076801US

PATENT

ATTORNEY DOCKET NO. 05032-00016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)
Guillaume J.J.M. van Eijs et al.	) Examiner:
Serial No.: 10/094,516	) Shahnam J. Sharareh
Filed: March 8, 2002	) Art Unit: 1617
Title: SMOOTH MUSCLE CELL PROMOTER AND USES THEREOF	)

Assistant Commissioner for Patents
Washington, D.C. 20231

Attention: Refund Section, Office of Finance

REQUEST FOR REFUND PURSUANT TO 37 CFR 1.28

Dear Sir:

Applicants claim small entity status and respectfully request a refund in the amount of $627.00 which was submitted as part of the application fee in the above-referenced application. Applicants were entitled to small entity status in this application because it was filed by independent co-inventors who have subsequently assigned all right title and interest to the present small entity. Applicants include herewith a copy of the assignment which was fully executed on April 22, 2002 and is being submitted concurrently under separate cover. Accordingly, Applicants hereby respectfully request refund of overpayment. This request is being submitted no more than two months from the filing of the Response to Notice to File Missing Parts.

With respect to additional fees, the Commissioner is hereby authorized to apply the refund of $627.00, and any additional overpayment, to Deposit Account No. 19-0733

Respectfully submitted,

Dated: February 3, 2003

By _____

John P. Iwanicki, Reg. No. 34,628
BANNER & WITCOFF, LTD.
28 State Street, 28th Floor
Boston, MA 02109
(617) 227-7111

Assignment

In consideration of One Dollar ($ 1.00), and other good and valuable consideration the receipt of which is hereby acknowledged, the undersigned,

van Eijs, Guillaume Johannes Jozef Marie – Servaashof 4, 6325 EV BERG EN TERBIJT, The Netherlands
Hateboer, Guus – Romeinlaan 55, 2105 SP HEEMSTEDE, The Netherlands
Havenga, Menzo Jans Emco – Wilhelmina Druckerstraat 66, 2401 KG ALPHEN A/D RIJN, The Netherlands

Hereby sell, assign and transfer to Crucell Holland B.V.

a corporation of The Netherlands
having a place of business at Archimedesweg 4, 2333 CN Leiden
its successors, assigns and legal representatives, the entire right, title and interest for the United States and all foreign countries, in and to any and all improvements which are disclosed in the application for United States Letters Patent, for which I filed an application for United States letters Patent on March 8, 2002 which application was accorded application no. 10/094,516 and is entitled 'Smooth muscle cell promotor and uses thereof'

,and in and to said application and all divisional, continuing, substitute, renewal, reissue, and all other applications for Letters patent which have been or shall be filed in the United States and all foreign countries on any of said improvements; and in and to all original and reissued patents which have been or shall be issued in the United States and all foreign countries on said improvements;

Agree that said Assignee may apply for and receive Letters Patent for said improvements in its own name and that, when requested, without charge to but at the expense of said Assignee, its successors, assigns and legal representatives, to carry out in good faith the intent and purpose of this assignment, the undersigned will execute all divisional, continuing, substitute, renewal, reissue, and all other patent applications on any and all said improvements; execute all rightful oaths, assignments, powers of attorney and other papers; communicate to said Assignee, its successors, assigns, and representatives, all facts known to the undersigned relating to said improvements and the history thereof; and generally do everything possible which said Assignee, its successors, assigns or representatives shall consider desirable for aiding in securing and maintaining proper patent protection for said improvements and for vesting title to said improvements and all applications for patent and all patents on said improvements, in said Assignee, its successors, assigns and legal representatives; and

Covenant with said Assignee, its successors, assigns and legal representatives that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been made to others by the undersigned, and that full right to convey the same as herein expressed is possessed by the undersigned.

Date April 22, 2002 _____

Date April 10, 2002 _____

Date April 11, 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

ATTN: MCMR-JA
(MS. ELIZABETH ARWINE-PATENT ATTY)
U.S. ARMY MEDICAL RESEARCH AND
MATERIEL COMMAND
504 SCOTT STREET
FORT DERICK, MD 21702-5012

COPY MAILED
SEP 02 2008

In re Application of	:	
Mary C. GUTTIER, et al	:	
Application No. 10/094,546	:	DECISION ON PETITION
Filed: March 8, 2002	:	
Docket No. 003/245/SAP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 29, 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 March 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; and (3) an the required statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 1636 for appropriate action by the Examiner in the normal course of business on the reply received March 7, 2008.

Thurman K Page

Thurman Page
Petitions Examiner
Office of Petitions

MAR 07 2008
IAP86
PATENT & TRADEMARK OFFICE

1st DAC/X

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Guttieri and Schmaljohn
U.S. application serial no.: 10/094,546
Filed: March 8, 2002
Title: Antibodies Expressed in Insect Cells

Attny Dkt: 003/245/SAP
Examiner: David Guzo

* *

PETITION FOR REVIVAL OF APPLICATION

Today's date: March 6, 2008

Mail Stop: Petitions
Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450
Sir:

This is a petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b), 37 CFR 1.155(c) or 1.316(c).

The above-identified application became abandoned for failure to file a timely and proper response to the Office Action mailed on 29 November 2006, which set a three months period for response. The abandonment date of this application is 29 May 2007 (i.e. the day after the expiration date of the period set for response plus any extensions of time obtained therefore).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

1. Petition fee
[ ] Small entity - fee $ _____ (37 CFR 1.17(m))
[ ] Small entity statement enclosed herewith.
[ ] Small entity statement previously filed.
[X] Other than small entity - fee $1540.00 (37 CFR 1.17(m))

2. Proposed response and/or fee

A. The proposed response and/or fee to the above-noted Office Action in the form of response
[ ] has been filed previously on _____.
[X] is enclosed herewith.

03/10/2008 ATRINH 00000014 210380 10094546
01 FC:1453 1540.00 DA

B. The issue fee of $ _____
[ ] has been paid previously on _____.
[ ] is enclosed herewith.

3. Verified statement

The delay caused by the abandonment of the application was unintentional.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

March 6, 2008
Date

S. Pratt, Reg No. 39,441
Signature

Telephone: 301-619-2032

for Elizabeth Arwine
U.S. A. MRMC
504 Scott Street
Fort Detrick, MD 21702-5012
ATTN: MCMR -JA (Elizabeth Arwine-Patent Attorney)

Enclosures

[X] Response
[X] Fee Payment
[ ] Small Entity Status Form
[X] Other 1.131 Declaration

CERTIFICATE OF MAILING

I hereby cerfify 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: Petitions, Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450.

March 6, 2008
Date

S. Pratt
Signature

Sana A. Pratt
Typed or printed name of person signing Certificate

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10094546 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
08/08/2008	00000013	4	8021	$40.00	08/07/2008	DA 210380
03/10/2008	00000016	1	1453	$1,540.00	03/07/2008	DA 210380
09/11/2006	00000071	1	1801	$790.00	09/07/2006	DA 210380
09/11/2006	00000072	1	1252	$450.00	09/07/2006	DA 210380
08/26/2005	00000097	1	1202	$100.00	08/26/2005	DA 210380
08/26/2005	00000098	1	1252	$450.00	08/26/2005	DA 210380
07/01/2004	00000127	1	1251	$110.00	06/28/2004	DA 210380
06/18/2002	00000037	1	105	$130.00	06/12/2002	DA 210380
03/18/2002	00000024	1	101	$740.00	03/08/2002	DA 210380
03/18/2002	00000025	1	102	$1,008.00	03/08/2002	DA 210380
03/18/2002	00000026	1	103	$612.00	03/08/2002	DA 210380

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

DENIRO/RAMBUS
685 MARKET STREET, SUITE 540
SAN FRANCISCO, CA 94105-4206

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of :
Richard Maurice Barth et al :
Application No. 10/094,547 :
Filed: March 8, 2002 :
Attorney Docket No. RA048DC4 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c), filed February 4, 2005, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 18, 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 2143 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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P.O. Box 1450
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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P. O. BOX 2938
MINNEAPOLIS, MN 55402

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MAY 31 2007

OFFICE OF PETITIONS

In re Application of James D. Muchow Application No. 10/094,552 Filed: March 7, 2002 Attorney Docket No. 1370.013US1	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed May 29, 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 May 2, 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 2194 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\094552.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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 10/29/08

TO SPE OF : ART UNIT 2194

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/094552 Patent No.: 7421478 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 (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: See attachment

SPE

2194
Art Unit

Attachment:

On Page 3, under "Other Publications", in column 1, lines 11-13, below "Distribution, vol. 2C, 10 pages, (1986)." delete " Lewis, P., "A High-Availability Cluster for Linux", www2.1inuxjournal.com.lj-issues/issue64/3247.html, 11 Pages, (Apr. 1994). cited by other .". The identified portion does not have "cited by other".

It would be better to delete on page 2, under "OTHER PBULICATION", in column 2, lines 12-13, "Lewis, P., "A High-Availability Cluster for Linux", 2.1inuxjournal.com.lj- issues/issue64/3247.html, (Apr. 1994), 11pages.".

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kimton N. Eng, Esq.
DORSEY & WHITNEY LLP
Suite 3400
1420 Fifth Avenue
Seattle, WA 98101

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CANCELLED

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FEB 08 2005
OFFICE OF PETITIONS

In re Patent No. 6,751,110	:	
Issued: June 15, 2004	:	
Application No. 10/094,574	:	PATENT TERM ADJUSTMENT
Filed: March 8, 2002	:	
Atty. Dkt. No.: 501147.01	:	

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)," filed June 28, 2004, requesting that the above-identified patent be accorded a patent term adjustment of 166 days.

The application for patent term adjustment ("PTA") under 37 C.F.R. § 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 6,751,110 on June 15, 2004. The instant request for reconsideration was timely filed June 28, 2004 in accordance with 37 C.F.R. § 1.705(d).

The patent issued with a PTA of 95 days. The instant application was timely filed June 28, 2004. Applicant argues that the adjustment of 166 days was improperly reduced 71 days in response to the April 6th 2004 submission of "Comments on Statement of Reasons for Allowance."

The Office failed to issue an Office communication within fourteen (14) months of the filing date of the application in accordance with 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.702(a)(1). Accordingly, a delay of 166 days can be attributed to the Office.

On April 6, 2004, the issue fee was submitted along with a paper titled "COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE." As argued by applicant, the Office has found that papers related to change of address and comments on the examiner's statement of reasons for allowance does not constitute failures to engage in reasonable efforts to conclude prosecution. *See*, 1247 Off. Gaz. Pat. Off. 111 (June 26, 2001). Accordingly, there was no failure by applicant to engage in reasonable efforts to conclude prosecution.

Thus, at the time of issuance, the patent was entitled to a PTA 166 days, as argued by applicant.

The PTA indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of 166 days.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 166 days.

The Office acknowledges submission of the required application fee of $200.00.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of Tony Vallejos Application No. 10/094,578 Filed: March 6, 2002 Attorney Docket No. VA13-010	DECISION GRANTING PETITION
~~In re Application of Tony Vallejos Application No. 10/470,639 Filed: December 5, 2003 Attorney Docket No. VA13-012~~	

This is a decision on the petition under 37 CFR 1.182, filed on January 11, 2005, requesting that a nonprovisional application entitled "Reciprocating and Rotary Internal Combustion Engine, Compressor and Pump" be assigned an application number and accorded a filing date of December 5, 2003.

The petition identifies the application filed on December 5, 2003, as a continuation of prior application No. 10/094,578, filed March 6, 2002. The original application papers filed on December 5, 2003, have been located in the file of prior application No. 10/094,578, and have been assigned application No. 10/470,639.

The application papers from application No. 10/094,578 will be "closed" in that application and will be scanned into application No. 10/470,639. A copy of the present petition will be retained in application No. 10/094,578 to complete the record therein. All further correspondence concerning the application should be directed to application No. 10/470,639, <u>not application No. 10/094,578</u>.

The original papers filed on December 5, 2003, will be used for examination purposes.

Accordingly, the petition is granted.

No petition fee is necessary. Therefore, the Office will refund the $400.00 petition fee paid in application No. 10/094,578 to Deposit Account No. 23-0925.

The Office of Initial Patent Examination is directed to accord application No. 10/470,639 a filing date of December 5, 2003, using the application papers submitted on December 5, 2003, and to mail a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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)
6672263	2004-01-06	10094578	2002-03-06	VA13-010

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	/Mark W Hendricksen/	Date (YYYY-MM-DD)	2010-01-05
Name	Mark W. Hendricksen	Registration Number	32356

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6672263
Issue Date: January 6,2004
Application No. 10094578
Filed: March 6,2002
Attorney Docket No. VA13-010

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

This is a decision on the electronic petition, filed January 5,2010 ,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 January 5,2010 . 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

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Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, Minnesota 55402

MAIL

AUG 2 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Krys Cianciarulo et al.
Application No. 10/094,591
Filed: March 7, 2002
For: SYSTEM AND METHODS FOR INSURING DATA OVER THE INTERNET

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition filed on May 26, 2004 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(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.

Applicant's combined submissions meet 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.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEMAIRE PATENT LAW FIRM PLLC
1500 RIVERVIEW OFFICE TOWER
8009 SOUTH 34TH AVENUE
BLOOMINGTON, MN 55425-1608

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OCT 1 4 2004

OFFICE OF PETITIONS

In re Application of	:
Krys Cianciarulo et al	:
Application No. 10/094,591	: DECISION GRANTING PETITION
Filed: March 7, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1098.007US1	:

This is a decision on the petition, filed October 11, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 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) 272-3218.

This matter is being referred to Technology Center AU 2155 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

LEMAIRE PATENT LAW FIRM, P.L.L.C.
PO BOX 11358
ST PAUL, MN 55111

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MAR 27 2006
OFFICE OF PETITIONS

Patent No. 6,922,720	:	DECISION ON REQUEST
Issue Date: July 26, 2005	:	FOR RECONSIDERATION OF
Application No. 10/094,591	:	PATENT TERM ADJUSTMENT
Filed: March 7, 2002	:	and
Atty Docket No. 1098.007US1	:	NOTICE OF INTENT TO
	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. 1.705(d)," filed August 26, 2005. Patentees request correction of the patent term adjustment indicated on the patent from four hundred forty-four (444) days to five hundred six (506) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of five hundred six **(506)** days.

On July 26, 2005, the above-identified application matured into U.S. Patent No. 6,922,720. The instant request for reconsideration filed August 26, 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 444 days. The initial determination of patent term adjustment of 464 days was increased by 42 days for Office delay in issuing the patent, but further reduced by 62 days for patentees' submission of a request for refund after the mailing of the notice of allowance. Patentees contend that there should have been no reduction for resubmitting on May 26, 2005, a request for refund that

originally had been submitted on November 18, 2004, and acknowledged by the USPTO on December 27, 2004.

Patentees' argument is well taken. Ordinarily, the submission of other papers after a "Notice of Allowance" is mailed that do cause substantial interference and delay in the patent issue process are considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application pursuant to 37 CFR 1.704(c)(10). Those papers include (1) a request for a refund, (2) a status letter, (3) amendments under 37 CFR 1.312, (4) late priority claims, (5) a certified copy of a priority document, (6) drawings, (7) letters related to biological deposits, and (8) oaths or declarations. However, in this instance, the record supports patentees' contention that the request for refund submitted after the mailing of the notice of allowance was merely a resubmission of a request filed 3 months prior to the mailing of the notice of allowance that had not been acted on.

In view thereof, the patent should have issued with a revised patent term adjustment of five hundred six (506) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. This fee is required for consideration pursuant to § 1.705(d) and will not be refunded.

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 FIVE HUNDRED SIX (506) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,922,720 B2

DATED : July 26, 2005

INVENTOR(S) : Cianciarulo 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 (444) days

Delete the phrase "by 444" and insert – by 506 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

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PO BOX 11358
ST PAUL, MN 55111

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APR 10 2006

OFFICE OF PETITIONS

Patent No. 6,922,720	:	
Issue Date: July 26, 2005	:	
Application No. 10/094,591	:	NOTICE
Filed: March 7, 2002	:	
Atty Docket No. 1098.007US1	:	

This is in response to your COMMUNICATION CONCERNING SMALL ENTITY STATUS filed October 20, 2005.

Patentee states that a notification of entitlement to small entity status was made on the issue fee transmittal for the application that issued as the above-identified patent. Patentee supplies a copy of the transmittal, showing such notification. Moreover, patentee states that the payment of fees in the amount of a large entity were previously refunded, as appropriate. However, the listing in the PAIR system continues to show the patent as having large entity status.

Notification of entitlement to small entity status under § 1.27(g) has now been made of record in the patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Amy E. Simpson
PAUL, HASTINGS, JANOFSKY &
WALKER LLP
P.O. BOX 919092
San Diego, CA 92191-9092

MAILED

JUN 2 5 2005

Technology Center 2100

In re Application of:
Amir Moussavian
Application No. 10/094,601
Filed: March 8, 2002
For: DEVICE-INDEPENDENT NOTIFICATION SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed May 19, 2005.

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

The request 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.

Michelle R. Eason for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
(571) 272-3613

cc: HELLER EHRMAN WHITE & MCAULIFFE LLP
4350 La Jolla Village Drive
San Diego, CA 92122

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

JACOBSON HOLMAN
PROFESSIONAL LIMITED LIABILITY COMPANY
400 SEVENTH STREET, NW
WASHINGTON DC 20004

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OCT 3 1 2003

OFFICE OF PETITIONS

In re Application of
Seok Cheol Yoon
Application No. 10/094,611
Filed: March 12, 2002
Attorney Docket No. P67509US0

DECISION DISMISSING PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the petition filed June 19, 2003, under 37 C.F.R. §1.55(c) requesting acceptance of an unintentionally delayed claim under 35 USC 119(a) through (d) for the benefit of the filing date of foreign Korea Application No. 01-38032, filed June 29, 2001.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) the nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and must be supplied on an application data sheet in accordance with 37 CFR 1.76 or on the oath or declaration;

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1)(i) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition is **DISMISSED** as Moot since the claim for priority for foreign Korea Application No. 01-38032, filed June 29, 2001, was present on filing on the declaration. Therefore, the $1300 petition fee submitted with the petition will be credited to Deposit Account No. 06-1358 as authorized.

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859.

The application is being forwarded to Technology Center Art Unit 2818.

Frances Hicks

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

Application Number	Application No.	Applicant(s)	
	10/094,638	STAUDACHER ET AL.	

TERMINAL DISCLAIMER	☒ APPROVED	☐ DISAPPROVED
Document Code - DISQ	This patent is subject to a Terminal Disclaimer	
INTERNAL DOCUMENT – DO NOT MAIL		

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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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/094,653	03/12/2002	Akio Urabe	220702US2	5568

22850 7590 04/29/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
CHAMPAGNE, LUNA

ART UNIT	PAPER NUMBER
3627	

NOTIFICATION DATE	DELIVERY MODE
04/29/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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APR 2 8 2008

TECHNOLOGY CENTER 3600

Raymond F. Cardillo, Jr.
OBLON, SPIVAK, MCCLELLAND MAIER & NEWSTADT,P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of
Urabe, Akio

ON PETITION FOR
CONSIDERATION OF
REFERENCE ON IDS
UNDER 37 CFR 1.181

Appl. No. 10/094,653
Filed: MARCH 12, 2002
For: **ELECTRONIC COMMERCE SYSTEM AND ELECTRONIC COMMERCE METHOD**

This is a decision on Applicant's Petition under 37 CFR 1.181(a)(3) received on July 18, 2007 requesting consideration of the reference "AO" (JP 2000-148858) and the reference to Taniguchi "AW" listed on the Information Disclosure Statement (IDS) submitted May 1, 2003.

The Petition is **DISMISSED.**

A review of the file history indicates that the applicant filed an IDS on May 1, 2003 listing the "AO" reference JP 2000-148858 and the "AW" reference to Taniguchi. With the notice of allowance mailed 7/18/2007, the Examiner indicated by lining through the "AO" reference on the IDS that the JP 2000-148858 was not considered. The "AW" reference to Taniguchi was initialed by the Examiner as being considered.

The petitioner requests initials next to both references indicating that both references have been considered. The petitioner states that the IDS submitted May 1, 2003 clearly complied with 37 CFR 1.97 and 37 CFR 1.98.

37 CFR 1.98 indicates that a concise explanation of the relevance, as it is presently understood by the individual most knowledgeable about the content of the information, of each reference listed on an IDS that is not in the English language.

Both the "AO" reference and the "AW" reference were submitted to the Office in Japanese. The applicant provided the Office with an English abstract of the "AO" reference along with an English translation of a Japanese Patent Office action

referencing both the "AO" and "AW" references. The applicant did not provide any additional concise explanation or translation for either the "AO' or "AW" references.

MPEP 609.04(a)(III) states that an English language translation of an Office action from a foreign patent office may satisfy the requirement of a concise explanation if it indicates the degree of relevance found by the foreign office.

The two references were only used to teach specific limitations that were missing in the primary reference. No other discussion of the relevancy of the references was found. This cannot constitute a degree of relevance for either reference as indicated in MPEP 609.04(a)(III) and therefore does not constitute a concise explanation of the relevancy of each foreign document. The Examiner did not err in not considering both references in the Office action mailed 5/10/2007, however the Examiner should have provided a reason for not considering the "AO" reference as described in MPEP in order to allow the applicant to correct any deficiency.

Regardless, the Examiner did consider the "AW" with the action of 5/10/2007 to an extent mentioned in another action mailed on 9/20/2007 and further indicated that the "AO" reference was also considered in the 9/20/2007 action.

Because both references were ultimately considered by the Examiner, the petition for consideration of references on an IDS is moot.

SUMMARY: The Petition is **DISMISSED.**

Any questions regarding this decision should be directed to SPE Florian Zeender at (571) 272-6790.

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

FZ/snm: 4/18/2008

SM

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 6, 2008

TO SPE OF : ART UNIT ~~2664~~ 2624

SUBJECT : Request for Certificate of Correction for Appl. No. 10/094657 patent no7079711

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: _____

VIKKRAM BALI — **SPE**

2624 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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FEB 08 2005

OFFICE OF PETITIONS

Paper No. None

FAX RECEIVED
CANCELLED
FEB 08 2005
OFFICE OF PETITIONS

Hanna Albert Awad
Ajaltoun, Kesrouan, Lebanon
Ajaltoun LB LEBANON

In re Application of	:	
Hanna Albert Awad	:	
Application No. 10/094,663	:	DECISION DISMISSING
Filed: March 12, 2002	:	PETITION UNDER 37 C.F.R. §1.137(a)
Title: CRUDE OIL IS A SOLUTION IN	:	AS MOOT
WATER, CRUDE OIL IS WATER, ROCK	:	
AND A BLACK SUBSTANCE		

This is a decision on the petition filed November 1, 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 non-final Office action, mailed August 4, 2003, which set a shortened statutory period for reply of three (3) months. On August 27, 2003, an amendment was received, and on December 9, 2003, a "Notice of Non-Compliant Amendment (notice)" was sent to the Applicant. On December 29, 2003, Petitioner filed a subsequent amendment.

As such, the instant petition is hereby **DISMISSED AS MOOT**, as the instant application is not abandoned.

---

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.

Petitioner failed to include the petition fee along with this petition, and as such, there is no fee to refund.

After the mailing of this decision, the application will be forwarded to Technology Center 1700 for further processing of the amendment filed December 29, 2003.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:072805

DATE : July 28, 2005

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 6,735,817

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

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

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

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

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

☐ **Approved** **All** changes apply.

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

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

Comments:

Change to Title page for Related U.S. Application Data is denied because Application No. 09/461,120 filed on Dec. 14, 1999, now Pat. No. 6,353,963 is a CONTINUATION of Application No. 09/216,529 filed on Dec. 18, 1998 and NOT a Continuation-In-Part of Application No. 09/216,529. Furthermore, similar changes need to be made in column 1 under "Cross-Reference To Related Applications" (see Oath filed 3/11/02).

John Kim
JOHN KIM
SUPERVISORY PATENT EXAMINER Au 1744

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 8, 2009

TO SPE OF : ART UNIT 3723 - SPE Joseph Hail.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/094,675 Patent No.: 6,735,817 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)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should corrected COCIN dated 11-24-2009 be approved?

Certificates of Correction Branch

(571)272-0483

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 should not be entered per MPEP 1481.03.

Joseph J. Hail III AU 3723

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 12/14/2009
Patent No. : 6,735,817 B2
Serial No. : 10/094,675
Inventor(s) : Bair et al.
Issue Date : May 18, 2004
Title : **UPRIGHT VACUUM CLEANER WITH CYCLONIC AIR FLOW**
Doc./File No. : **RYL 2 0535-3-3-2-1**

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 in request, a decision on your most recent request for a corrected certificate of correction dated 6/7/05 is denied, after further examination, the examiner has determined that the changes in item (63), Related U.S. Application Data should not be entered per MPEP 1481.03. No correction is in order here.

In view of the foregoing, you request in this matter is denied.

Ernest C. White, *LIE* (703) 756-1590
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch

Fay Sharpe LLP / Royal
1228 Euclid Avenue, 5th Floor
The Halle Building

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL L. GOLDMAN, ESQ.
NIXON PEABODY LLP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER, NY 14603-1051

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FEB 08 2005

OFFICE OF PETITIONS

In re Application of :
Xingen Lei :
Application No. 10/094,693 : ON PETITION
Filed: March 8, 2002 :
Attorney Docket No. 19603/4064 (CRF D-1986B) :

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 1600, Art Unit 1652.

Retta Williams

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

NOV 27 2002

#9

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

In re Application of	:
John J. L. Simard et al	:
Serial No.: 10/094,699	: PETITION TO MAKE SPECIAL
Filed: March 7, 2002	:
Attorney Docket No.: CTLIMM.015A	:

This is in response to applicants' petition filed November 19, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefor the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JJGJR.: 05-06

Paper No:__

THOMAS L. KUNDERT
AFMCLO/JAZ
BLDG 11, ROOM 100
2240 B STREET
WRIGHT-PATTERSON AFB OH 45433-7109

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MAY 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Stytz, et al.	:	DECISION
Application No. 10/094,738	:	
Filing Date: 11 March, 2002	:	
Attorney Docket No.: AFD 520	:	

This is a decision on the petition filed on 21 March, 2006, under 37 C.F.R. §1.137(a), alleging unavoidable delay, and considered as a request for withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**, and the petition under 37 C.F.R. §1.137(a) is **dismissed as moot**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 15 June, 2005, with reply due absent an extension of time on or before 15 September, 2005;
- the Office mailed the Notice of Abandonment on 10 January, 2006;
- on 21 March, 2006, Petitioner filed the instant petition and alleged the timely filing of a Request for a Statutory Invention Registration (SIR) (35 U.S.C. §157, see: MPEP Chapter

1100) over a 13 September, 2005, Certificate of Mailing–it is noted, however, that Petitioner did not include with the petition a copy of the date-stamped receipt card (see: MPEP §503[1]) evidencing the filing;

- on further review, that omission is obviated by Office records, which support the allegation, evidencing the filing on 15 September, 2005;

- review of the instant matter by the SPE in Technology Center 3600 indicates that "the group should ... properly enter the [SIR] and send it to [Art Unit] 3641 where the paper will be considered. If it fails to meet the requirements for a SIR, [then] we will abandon it."

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

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[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] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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

The instructions of the SPE will be followed, and for that reason Petitioner appears as of this writing to have satisfied the showing requirements described above. It is noted, however, that should the determination be made that request fails to satisfy the statutory requirements, the application will be abandoned once again, and Petitioner's only recourse may be the filing of a petition under 37 C.F.R. §1.137(b).

CONCLUSION

Because it appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, the 10 January, 2006, Notice of Abandonment is **vacated**; the petition under 37 C.F.R. §1.137(a) is **dismissed as moot**, and the fees are waived and refunded.

The instant application is released to Technology Center 2100/ AU 2193 for processing as instructed by the SPE, to wit: "... the group should ... properly enter the [SIR] and send it to [Art Unit] 3641 where the paper will be considered. If it fails to meet the requirements for a SIR, [then] we will abandon it."

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

FULBRIGHT & JAWORSKI L.L.P
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

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OFFICE OF PETITIONS

In re Application of	:	
Chow et al.	:	
Application No. 10/094,743	:	ON APPLICATION FOR
Filed: March 11, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
74268/P005US/10506911	:	
Title: HYBRID	:	
FIBER/CONDUCTOR INTEGRATED	:	
COMMUNICATION NETWORKS	:	

This is in response to the "Petition Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance," filed June 2, 2009. Applicant requests that the determination of patent term adjustment be increased by six hundred and thirty-six (636) days to one thousand, five hundred and nine (1509) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to Applicants' Deposit Account in due course. No additional fees are required.

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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

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

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Director's Office
Group 3700

ARTHUR S. COOKFAIR
201 GLENALBY RD
TONAWANDA, NY 14150

Paper No. 5

In re Application of
CALABRO ET AL.
Appl No.: 10/094,745
Filed: March 11, 2002
For: BINGO CARD MARKER
Attorney Docket Number: ACJC 31102

DECISION GRANTING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for petitioner's request to accept the response received January 28, 2003 as timely based on non-receipt of the office action. The petition submitted January 28, 2003 is considered pursuant to 37 CFR 1.181. No fee is required for this petition.

The petition is granted.

A review of the file history indicates that a restriction requirement was mailed July 22, 2002. Petitioner alleges non-receipt of the restriction requirement mailed July 22, 2002. In support of the request, petitioner has provided a showing of non-receipt of the Office action in accordance with MPEP 711.03(c)IA with petitioner's statements read as meaning that no separate docket report is maintained. Accordingly, it appears that petitioner is entitled to have the Office action of July 22, 2002 remailed. However, petitioner has obtained a copy of the office action and subsequently filed a response with this petition on January 28, 2003. Therefore, physical remailing of the office action is not necessary and the election filed January 28, 2003 will be accepted as timely filed.

The application will be forwarded to the Technical Support Staff to have an entry in the PALM system made to show the office action of July 22, 2002 has been remailed prior to the filing of the election of January 28, 2003. The election of January 28, 2003 will be entered into the file and the application will then be forwarded to the examiner for action.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

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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MEDTRONIC, INC.
710 MEDTRONIC PARK
MINNEAPOLIS, MN 55432-9924

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OFFICE OF PETITIONS

In re Application of	:	
Thomas E. Cross, Jr.	:	
Application No. 10/094,758	:	DECISION GRANTING PETITION
Filed: March 8, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. P-9721.00	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 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 nonfinal Office action mailed March 30, 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 March 31, 2005.

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 of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of March 20, 2005 is accepted as having been unintentionally delayed.

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

The application file is being forwarded to Technology Center AU 3766 for appropriate action in the normal course of business on the reply received October 11, 2005.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN F. SALAZAR
MIDDLETON REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE, KY 40202

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SEP 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Jon M. T. Abenroth et al	:	
Application No. 10/094,765	:	DECISION ON PETITION
Filed: March 11, 2002	:	
Attorney Docket No. 084071-037-027	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 2006, in the above-identified application.

The petition is dismissed.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1,500.

The petition in the above-identified application was <u>not</u> accompanied by payment of the required fee. The fee submitted was $130, whereas the correct amount is $1,500. Accordingly, no consideration on the merits can be given the petition until the full amount of the required fee is received.

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MIDDLETON REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE, KY 40202

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OFFICE OF PETITIONS

In re Application of	:	
Jon M. T. Abenroth et al	:	
Application No. 10/094,765	:	DECISION GRANTING PETITION
Filed: March 11, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 084071-037-027	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 1, 2005, which set a shortened statutory period for reply of three (3) months. A three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on December 2, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (request for continued examination (RCE), filing fee of $790, and submission as required by 37 CFR 1.114), (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of June 1, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3671 for processing the RCE and for appropriate action in the normal course of business on the reply received March 17, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

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JAN 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Chernenko et al. :
Application No. 10/094,797 :
Filed: March 12, 2002 : ON PETITION
Title of Invention: :
METHOD FOR INTRACORPOREAL :
LITHOTRIPSY FRAGMENTATION AND :
APPARATUS FOR ITS IMPLEMENTATION :

This is a decision on the Petition to Withdraw Holding of Abandonment, filed August 29, 2005. The petition is properly treated under 37 CFR 1.181.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 8, 2004. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on March 9, 2004. A Notice of Abandonment was mailed on August 23, 2005.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant avers that a timely reply was filed on March 7, 2005, and was received by this Office as evidenced by Applicant's return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard acknowledging receipt of an Amendment Transmittal and an Amendment by this Office on March 7, 2005. A review of the Amendment Transmittal reveals that it includes an authorization to charge Applicant's deposit account any extension of time fees as necessary, to Applicant's deposit account, no. 23-2185.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

The copy of the Amendment Transmittal and an Amendment, filed with the instant petition on August 29, 2005, will be used for examination purposes.

No petition fee has been charged and none is due.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

The application file is being referred to Technology Center Art Unit 3731 for continued processing 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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: SEP 2 1 2004

spg
Paper Number _____

In re application of
Masao Tanabiki et al.
Serial No. 10/094,799
Filed: March 12, 2002
For: TRANSITION METAL COMPOUND, CATALYST FOR POLYMERIZATION OF OLEFIN, AND PROCESS FOR POLYMERIZATION OF OLEFIN USING THE CATALYST

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a), filed April 29, 2004 and resubmitted July 28, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of April 26, 2004, for failure to timely file a proper reply to the Office letter mailed August 5, 2003 be withdrawn since the applicants did timely file a reply on September 5, 2003. (A copy of the reply is 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 September 5, 2003 as evidenced by the copy of the USPTO date stamped return receipt postcard indicating receipt of the reply at the USPTO on September 5, 2003. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed August 5, 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 September 5, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070806

DATE : August 6, 2007

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction on Patent No.: 7153916

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: David W. Wu **Art Unit** 1713

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.
10/094,803	03/12/2002	Janet Mary Tippet	12406.00	3901

20686 7590 09/30/2004

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

EXAMINER
ALLEN, MARIANNE P

ART UNIT	PAPER NUMBER
1631	

DATE MAILED: 09/30/2004

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

The petition filed under 37 C.F.R. 1.84(a)(2) on March 12, 2002 requesting acceptance of color drawings has been considered.

The petition is GRANTED.

Any inquiry concerning this communication should be directed to Michael P. Woodward at telephone number 571-272-0722.

MICHAEL P. WOODWARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600
9/23/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

04212006

MAY 4 2006

Peter A. Wolf
912 St. Andrews Way
Bel Air MD 21015

In re Application of:
Peter A. Wolf
Serial No.: 10/094,818
Filed: March 12, 2002
For: Simple Dissolved Carbon Dioxide Analyzer

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.181, filed August 31, 2004, to re-mail the Notice of Allowance and Fee(s) Due of December 7, 2004.

The petition is GRANTED.

A Notice of Allowance and Fee(s) Due (Notice of Allowance) was mailed December 7, 2004, setting a three-month statutory period for paying the issue fee.

Petitioner asserts that the Notice of Allowance mailed on December 7, 2004 was not received. To support this assertion, petitioner states that upon checking the status of his patent application on the USPTO web site, he discovered that the application was abandoned for failure to pay the issue fee. Petitioner further states that upon checking the Image File Wrapper, he discovered that all communication from the USPTO from December 7, 2004 to May 17, 2005 was mailed to his former address in Gaithersburg, Maryland despite the fact that on November 21, 2004 a change of address was filed along with payment of fees. Still further, petitioner states that the Image File Wrapper indicates that the change of address was received by the USPTO.

A review of the written record indicates that a change of correspondence address was filed on November 24, 2004 but not entered into the application file. The record also reveals that a Notice of Abandonment was mailed and remailed to the old correspondence address (Gaithersburg, Maryland) and each was returned as undeliverable mail by the US Postal Service. The record further reveals that the Notice of Allowance was also mailed to the old correspondence address.

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.

For the above stated reasons, the Notice of Allowance was not received at the correspondence address and will be re-mailed. The period to pay the requisite fees will be reset to run three months from the date it is re-mailed. No extension of time is available under 37 CFR 1.136(a).

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

Arthur Grimley, Acting Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/17-09

Paper No.: _____

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/094826 Patent No.: 7042927

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

FOR IFW FILES: Should COFC be approved

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

Chris 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: _____

S Lee Chang Lee 2611
SPE **Art Unit**

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

In re Application of :
Robert A. Cochran :
Application No. 10/094,827 : ON PETITION
Filed: March 6, 2002 :
Attorney Docket No. 10011270-1 :

This is a decision on the petition, filed October 9, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed May 21, 2007. A Notice of Abandonment was mailed on September 13, 2007. In response, on October 9, 2007, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Robert W. Bergstrom appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Bergstrom desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $1,540 and (3) an adequate statement of unintentional delay[1].

Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Data Management to oversee the review of the drawing filed October 9, 2007.

[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. While the statement is not made by an attorney of record, 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 inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ROBERT W. BERGSTROM
P.O. BOX 4277
SEATTLE, WA 98194-0277

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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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

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OFFICE OF PETITIONS

In re Application of	:	
Kawanishi, et al.	:	
Application No. 10/094,852	:	ON PETITION
Filed: March 11, 2002	:	
Attorney Docket No. F-7349	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed August 4, 2005. Accordingly, this application became abandoned on November 5, 2005. A Notice of Abandonment was mailed on December 16, 2005.

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 August 4, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

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) 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CYR & ASSOCIATES, P.A.
605 U.S. HIGHWAY 169
SUITE 300
Plymouth, MN. 55441

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MAR 1 8 2008
OFFICE OF PETITIONS

In re Application of	:	
Gladwin S. Das	:	
Application No. 10/094,866	:	ON PETITION
Filed: March 11, 2002	:	
Attorney Docket No. 1013-003-CIP2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned after the period for seeking court review of the decision by the Board of Appeals and Patent Interference had expired. The decision by the Board of Appeals and Interference was rendered July 11, 2007. There were no allowed claims.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/985,831.

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 documents 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.

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 Thurman K. Page at (571) 272-0602.

David Bucci
Petitions Examiner
Office of Petitions

cc: Kevin W. Cyr
605 U.S. Highway 169 N
Plymouth, MN 55441

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Alexandria, VA 22313-1450
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CLISE, BILLION & CYR, P.A.
605 U.S. HIGHWAY 169
SUITE 300
PLYMOUTH MN 55441

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NOV 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Gladwin S. Das	:	DECISION ON PETITION
Application No. 10/094,866	:	TO WITHDRAW
Filed: March 11, 2002	:	FROM RECORD
Attorney Docket No. 1013-003CIP2	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on September 22, 2009.

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

Pursuant to the Official Gazette: Change in Procedure for Requests to Withdraw from Representation in a Patent Application. A Request filed prior to the expiration date of a time period for reply or the expiration date of a time period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a), the Office will review the Request and render a decision, even if the decision on the Request is decided after the stated period for reply, after the application is abandoned, or after proceedings have terminated. In contrast, the Office will not decide requests to withdraw from representation as practitioner of record which are filed after the expiration date of a time period for reply or the expiration date of a time period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). These Requests will be placed in the application but will not be treated on their merits.

The change in practice in this notice applies to Requests filed on or after May 12, 2008.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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DIW 06-05

GERALD GEORGE WILLIAMS
6 AEL - Y - BRYN
CARNO.(MID-WALES) SY17 -5JZ
UNITED KINGDOM

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Gerald George Williams	:	
Application No. 10/094,882	:	ON PETITION
Filed: 12 March, 2002	:	
For: INFLATABLE REFLECTING SCREEN	:	

This is a decision on the paper entitled "Petition to Revive", filed on 19 April, 2005, which, in the absence of a fee, is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.[1]

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 1.181" or as described within, under 37 CFR 1.137(a) or (b). This is not a final agency action.

This application became abandoned on 10 July, 2004, for failure to file a proper reply to the final Office action mailed on 9 April, 2004, which set a three (3) month shortened statutory period for reply. No extensions in accordance with 37 CFR 1.136(a) were obtained. An amendment after final rejection was filed on 12 July, 2004, but was untimely. A Notice of Non-Compliant Amendment and a Notice of Abandonment were mailed on 7 January, 2005. A letter requesting revival was filed on 4

[1] In the absence of the petition fee, which is required by law, the PTO can only treat the instant petition as a (feeless 1.181) petition to withdraw the holding of abandonment. See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

February, 2005, and a response was mailed on 14 March, 2005.

In the absence of the petition fee, which is required by law, the PTO can only treat the instant petition as a (feeless 1.181) petition to withdraw the holding of abandonment.[2] The PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.[3] As petitioner has not alleged circumstances which would warrant the withdrawal of the holding of abandonment, the petition will be dismissed.

Petitioner states that a reply was mailed using the U.K. Royal Mail on 5 July, 2004, but did not reach the USPTO in a timely manner because of delays in delivery after the reply arrived in the United States.

Petitioner's evidence has been considered, but is not persuasive.

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

---

[2] See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

[3] MPEP 711.03(c); see 35 U.S.C. 41(a)(7).

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.[4] (emphasis added)

37 CFR 1.10(e) provides that:

> Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "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

---

[4] See 37 CFR 1.6(a).

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.

It is noted, however, that the reply was not mailed in accordance with 37 CFR 1.8 or 1.10. As such, the provisions of these rules are not available. Furthermore, there is no provision in the rules for considering the date that a reply was deposited in U.K. Royal Mail as the date that said reply was filed.

While this is an unfortunate situation, there is simply no showing, in accordance with 37 CFR 1.8 or 1.10, that applicant's reply to the Office action was filed in the USPTO prior to the due date for a reply to the Office action. At best, the showing of record is that applicant intended to file a timely reply. In future filings, petitioner may wish to consider employing a registered patent attorney in the United States to file documents with the USPTO.

As the showing of record is that the required reply was not timely filed, the petition is dismissed.

ALTERNATIVE VENUE

Alternatively, petitioner may wish to consider filing a petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 1995, and abandoned for failure to

prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Should petitioner decide to file a petition under 37 CFR 1.137(b), the current small-entity fee for a petition under 37 CFR 1.137(b) is $750.00.

A copy of the form for filing a petition under 37 CFR 1.137(b) is enclosed for petitioner's reference.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cf: PTO/SB/64
Fee Schedule FY05
Privacy Act Stmt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RAYMOND SUN
12420 WOODHALL WAY
TUSTIN, CA 92782

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MAY 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Yu ZHENG	:	
Application No. 10/094,883	:	DECISION ON PETITION
Filed: March 11, 2002	:	
Attorney Docket No. PAT-1408	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of November 16, 2007 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 16, 2007. *See* MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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 a continuing application under 37 CFR 1.53(b).

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

April Wise
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

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AUG 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Kiyoharu Nakao, et al.	:	
Application No. 10/094,889	:	ON PETITION
Filed: March 12, 2002	:	
Attorney Docket No.: KOM-172	:	
	:	

This is a decision on the petition, filed August 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 July 12, 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 2828 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
www.uspto.gov

Date : August 26, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Kiyoharu Nakao, et al.
Application No. : 10/094,889
Filed : March 12, 2002

The above-identified application has been assigned Patent No. 6,937,634 and an issue date of August 30, 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 August 30, 2005:

"All reference to Patent No. 6,937,634 to KIYOHARU NAKAO, ET AL. of JAPAN for INJECTION LOCKING TYPE OR MOPA TYPE OF LASER DEVICE appearing in the Official Gazette of August 30, 2005, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-44I (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 3-9I0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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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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Paper No. 5

PACESETTER, INC.
15900 VALLEY VIEW COURT
SYLMAR CA 91392-9221

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AUG 2 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Fishler et al.
Application No.10/094,929
Filed: December 6, 2001
Attorney Docket No. A00P1005US01

Title of Invention: IMPLANTABLE CARDIAC DEVICE FOR AND METHOD OF MONITORING PROGRESSION OR REGRESSION OF HEART DISEASE BY QUANTIFYING MORPHOLOGICAL FEATURES

This is a decision on the petition filed under 37 CFR 1.137(b) which is properly being treated as petition under 37 CFR 1.182, filed on February 26, 2004 to transfer application papers and accord a filing date.

The petition is **GRANTED**.

The application papers filed with the CPA request on December 6, 2001 in application 09/487,858 are being transferred to the above identified application (10/094,929). Accordingly, the above identified application now contains specification, claims and drawings in accordance with 35 USC 111. The requirements of the Notice of Incomplete Nonprovisional Application mailed on April 11, 2002 have been met.

The Office acknowledges receipt of a copy of the declaration from parent application 09/487,858 submitted with the instant petition.

Pursuant to petitioner's request deposit account 16-0068 is being charged the $740.00 filing fee, the $130.00 surcharge for late filing of the declaration, and the $130.00 petition fee.

The application is being returned to the Office of Initial Patent Examination for further processing with a **filing date of December 6, 2001** using 19 sheets of specification, 7 pages of claims, 1 abstract sheet and 4 sheets of drawings which includes figures 1-4 supplied on December 6, 2001.

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

#8

I hereby certify that this correspondence is being deposited with the United States Patent Office, Assistant Commissioner for Patents, on 11/27/02 via facsimile to the Office of Petitions at: 703-308-6916.

Date 11/27/02 Signature: Marjorie Scariati
Marjorie Scariati

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Koon Chong So et al.

Serial No.: 10/094,932

Filed: 03/11/2002

Title: TRENCH DMOS TRANSISTOR HAVING IMPROVED TRENCH STRUCTURE

Art Unit: 2811

Docket No.: GS 161

FAX RECEIVED
NOV 27 2002
PETITIONS OFFICE

Via Facsimile 703-308-6916
Office of Petitions
Assistant Commissioner for Patents
Washington, DC 20231

RESPONSE TO DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

Sir:

This is in Response to the Decision Refusing Status Under 37 CFR 1.47(a) mailed on September 30, 2002.

The Decision to Refuse Status indicates that the Petition Under 37 CFR 1.47(a) filed on August 19, 2002 does not meet the requirement of Rule 47 (1), i.e. that the applicant has provided insufficient "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).**

MAYER FORTKORT WILLIAM Fax:908-518-7795 Nov 27 2002 15:54 P.02

As to inventor Hshieh, filed herewith please find a revised statement of Marjorie Scariati, clarifying that the "documents" received by Mr. Hshieh included not only Declaration and Assignment documents, but a copy of the entire application (specification, claims, abstract, and drawings) as well.

As to inventor So, filed herewith please find a revised statement of Marjorie Scariati, clarifying that the "documents" presented to Mr. So included not only Declaration and Assignment documents, but a copy of the entire application (specification, claims, abstract, and drawings) as well. Further, clarification of the attempts to deliver these documents to Mr. So is made.

In view of the enclosed clarified statement, Applicant hereby petitions the Assistant Commissioner to accept this application without the signature of the first and second inventors, and to maintain the March 11, 2002 filing date of this application accordingly. It is respectfully requested that a written decision granting this Petition be provided, and that the application proceed to the appropriate Technology Center for Examination accordingly.

The PTO is hereby authorized to charge any additional fees required to the undersigned attorney's PTO Deposit Account #50-1047.

Respectfully submitted,

Karin L. Williams Reg. No. 36,721

Attorney for Applicant
Mayer Fortkort & Williams, PC
251 North Avenue West, 2nd Floor
Westfield, NJ 07090

Tel.: 908-518-7700

MAYER FORTKORT WILLIAM Fax:908-518-7795 Nov 27 2002 15:54 P.03

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

MAYER FORTKORT & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

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DEC 13 2002

OFFICE OF PETITIONS

In Application of
Koon Chong So, Fwu-Iuan Hshieh,
Yan Man Tsui
Application No. 10/094,932
Filed: March 11, 2002
Attorney Docket No. GS 161
Title: TRENCH DMOS TRANSISTOR
HAVING IMPROVED TRENCH STRUCTURE

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 27, 2002.

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

The above-identified application was filed on March 11, 2002. On April 15, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, *inter alia*, an executed oath or declaration (and a surcharge for its late filing). This Notice set a two-month period for reply.

In reply, applicant filed the petition under 37 CFR 1.47(a) on August 19, 2002, 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 15, 2002. Accompanying the petition were, *inter alia*,: (1) a declaration executed by inventor Yan Man Tsui, but with the signature blocks for inventors Koon Chong So and Fwu-Iuan Hshieh left blank; (2) a statement by paralegal Marjorie Scariati, describing the efforts made to transmit "documents" to So and Hsieh; including So's "refusal" to accept those documents, (3) a Federal express receipt indicating that Hshieh received "documents" for signature on June 14, 2002; and (4) Federal Express "delivery attempt receipts" for So, indicating that on three separate occasions So was not at his last known address in order to receive the documents that were sent to him.

However, the August 19, 2002 petition was dismissed in a decision mailed on September 30, 2002. Rule 47 applicant did not show that a copy of the application papers (consisting of specification, claims, drawings, and oath or declaration) were forwarded to inventors Hshieh or So for their review. In

addition, Rule 47 applicant failed to establish that So had "refused" to accept delivery of the papers that were forwarded to him.

On renewed petition, Rule 47 applicant has submitted an additional statement from Scariati indicating that copies of the entire application papers were forwarded to the last known addresses of Hshieh and So for their review. Furthermore, the statement from Scariati explained that while So was not present to sign for the application papers on three separate delivery attempts, So was given the opportunity to sign for the application papers if he anticipated not being home at the next delivery attempt. In addition, So was given the opportunity to pick up the application papers at a Federal Express Station after the last unsuccessful delivery attempt.

The declaration filed August 19, 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 non-signing inventors So and Hshieh at the addresses 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

MAYER FORTKORT & WILLIAMS PC
251 NORTH AVENUE WEST
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WESTFIELD NJ 07090

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SEP 3 0 2002

OFFICE OF PETITIONS

In Application of So, et al. Application No. 10/094,932 Filed: March 11, 2002 Attorney Docket No. GS 161 Title: TRENCH DMOS TRANSISTOR HAVING IMPROVED TRENCH STRUCTURE	: : : : : :	DECISION REFUSING 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 **DISMISSED**.

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

The above-identified application was filed on March 11, 2002. On April 15, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, *inter alia*, an executed oath or declaration (and a surcharge for its late filing). This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, and 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 15, 2002. Accompanying the petition were, *inter alia*,: (1) a declaration executed by inventor Yan Man Tsui, but with the signature blocks for inventors Koon Chong So and Fwu-Iuan Hshieh left blank; (2) a statement by paralegal Marjorie Scariati, describing the efforts made to transmit "documents" to So and Hsieh; including So's "refusal" to accept those documents, (3) a Federal express receipt indicating that Hshieh received "documents" for signature on June 14, 2002; and (4) Federal Express "delivery attempt

receipts" for So, indicating that on three separate occasions So was not at his last known address in order to receive the documents that were sent to him.

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. Rule 47 applicant has not met requirement (1).

As to inventor Hshieh, there has been no showing that Hshieh was ever presented with the application papers (specification, claims, drawings, oath or declaration). Regarding this, the Manual of Patent Examining Procedure states:

> It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 U.S.P.Q. 80 Comm'r Pat. 1956).
>
> 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 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.[1]

Here, the statement from Scariati only indicates that Hshieh was presented with a copy of "documents", presumably the Assignment and Declaration/Power of Attorney papers. Clarification is needed to show that Hshieh was presented with the application papers.

As to inventor So, Rule 47 applicant has not demonstrated that a copy of the application papers were forwarded to So, for the same reasons stated above. In addition, Rule 47 applicant has not demonstrated that So has "refused" to accept the delivery of these papers.[2] The Federal Express "delivery attempt receipts" for So are marked "RCPT NOT IN/BUSINESS CLOSED". This does not indicate that So has refused delivery, rather only that So was not home at the time the attempts were made to deliver the package to him for his signature.

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

---

[1] MPEP 409.03(d).

[2] "Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, claim, drawings, and oath or declaration), but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent..." is sufficient for Rule 47 purposes. Id.

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 regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

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

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DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY, OK 73113

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NOV 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Beasley, et al.	:	
Application No. 10/094,942	:	ON PETITION
Filed: March 14, 2002	:	
Attorney Docket No. 5837.033	:	

This is a decision on the papers filed August 31, 2005, which have 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 pay the issue fee and publication fee, if applicable, on or before August 12, 2005. Accordingly, this application became abandoned on August 13, 2005.

Petitioner asserts the Notice of Allowance ("Notice") was never received and that the Office mailed the Notice to the wrong address. A review of the application file indicates the Notice was mailed to an incorrect address. The Office sincerely apologizes for this error.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

The petition fee, submitted August 31, 2005, will be refunded by treasury check.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

Anglin & Giaccherini
Post Office Box 1146
Carmel Valley CA 93924

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FEB 1 1 2003

OFFICE OF PETITIONS

In re Application of
Giaccherini, et al.
Application No. 10/094,943
Filed: March 11, 2002
Attorney Docket No.: VLT2000-I-CIPE
For: METHOD FOR SECURELY
DISTRIBUTING & UPDATING SOFTWARE

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed December 9, 20002 (certificate of mailing/transmission date December 6, 2002), to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed April 23, 2002, which set an extendable two (2) month period for reply. No valid extensions of time being obtained under 37 CFR 1.136, this application became abandoned on June 24, 2002. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

PETITION UNDER 37 CFR 1.137(a)

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If

> unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks item (3).

Regarding (3) above, petitioner has not shown to the satisfaction of the Commissioner that the entire delay from the due date of the reply to the filing of a grantable petition was unavoidable.

Petitioners claim that they were unavoidably prevented from timely replying to the April 23, 2002 Notice because the assignee of record, Sky Vault Secure Digital Distribution, Inc had no funds to pay the required filing and late fees.

The showing of record before the Office is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). There is some ambiguity as to who was responsible for prosecuting the application at the time the fees were due. The assignments filed with the instant petition were executed on November 24, 2002. The fees were due June 24, 2002. It appears there was no assignee until after the fees were due.

The party or parties in interest at the time the fees were due must provide a showing of their financial condition from the date of abandonment (June 24, 2002) to December 6, 2002 covering the following areas: income, expenses, assets, credit and obligations. In short, petitioners must establish that due to financial burden, petitioners were unavoidably delayed in paying required fees. Petitioners should provide copies of any documents or records that would confirm the financial difficulty in paying required fees. Bank statements would be valuable evidence.

An adequate showing of **diligence** is the touchstone of a successful petition to revive under an unavoidable standard. If petitioners prioritized their bills and their patent business is shown not to

be their most important business, then it would be extremely difficult to prove unavoidable delay. Preoccupation with other matters which took precedence over the prosecution of the above-identified application does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533,538, 213 USPQ 977, 982 (D.C. Cir. 1982).

The requirement in 35 USC 133 for a showing of unavoidable delay requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay from the time an applicant becomes aware of the abandonment of the application until the filing of a petition to revive. See In re Application of Takao, 17 USPQ2d 1155 (Comm'r Pat. 1990). The entire delay in responding must be shown to be unavoidable. In any renewed petition under 37 CFR 1.137(a), petitioners must show that they were unavoidably prevented from replying to the Notice from June 24, 2002 until December 6, 2002.

ALTERNATE VENUE-- PETITION UNDER 37 CFR 1.137(b)

Applicants may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $640.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioners intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). For petitioners' convenience, a blank PTO/SB/64 -- Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b).

FINANCES

A review of Office financial records indicates that petitioners submitted a four month extension of time with the instant petition. 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 $720.00 extension of time submitted with the petition on December 9, 2002 (certificate of mailing December 6, 2002) was subsequent to the maximum period obtainable for reply, the fee

will be refunded by way of a treasury check that will be scheduled shortly.

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

E. Shirene Willis

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

enclosures: blank PTO/SB/64 -- Petition for Revival of an Application Abandoned Unintentionally under 37 CFR 1.137(b)

Privacy Act Statement

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OFFICE OF PETITIONS

ELMORE PATENT LAW GROUP, PC
209 MAIN STREET
N. CHELMSFORD, MA 01863

In re Patent No. 7,052,678	:
Issued: May 30, 2006	: DECISION UNDER 37 CFR
Application No. 10/094,955	: 1.705(d) and NOTICE OF INTENT
Filed: March 7, 2002	: TO ISSUE CERTIFICATE OF
Atty. Dkt. No.: 2846.1003-014	: CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705," filed June 6, 2006. This matter is being treated under 37 CFR 1.705(d) as an application for patent term adjustment (PTA).

The application for PTA under 37 CFR 1.705(d) is hereby **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,052,678 on May 30, 2006. The patent issued with a PTA of 95 days. Applicants argue that patent is entitled to an adjustment 159 days.

At the time of issuance, the patent term adjustment of 449 days was reduced 354 days for applicants' failure to engage in reasonable efforts to conclude prosecution.

Patentees herein argue that the reduction of 64 days in response to the submission of formal drawings on March 28, 2006 is in error.

In accordance with 37 CFR 1.704(c)(10), submission of drawings after the Notice of Allowance has been give or mailed is a failure to engage in reasonable efforts to conclude prosecution. *See, also, Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001).

However, in view of the fact that the Office action mailed December 19, 2003 indicated that the drawings were accepted, submission of new formal drawings in response to the Notice mailed March 22, 2006 will not be deemed a failure to engage in reasonable efforts to conclude prosecution in the instant case.

Accordingly, the patent is entitled to an adjustment of 159 days as argued.

The required application fee of $200.00 has been charged to patentees' deposit account as authorized.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 159 days.

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

Nancy Johnson for

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

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,052,678 B2
DATED	:	May 30, 2006
INVENTOR(S)	:	Vanbever, et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 95 days

Delete the phrase "by 95 days" and insert – by 159 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE P.C.
8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON VA 22201

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SEP 2 4 2002

OFFICE OF PETITIONS

In re Application of	:
Crossland & Yu	:
Application No. 10/094,958	: DECISION ACCORDING STATUS
Filed: 12 March, 2002	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 124-935	:

This is in response to the petition filed under 37 CFR 1.47(a) on 24 July, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Tat CB Yu, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, by the declaration of Philip Davies, the petitioners have established, that a copy of the above-identified application was sent via Federal Express to the non-signing inventor's last known address. However, the non-signing inventor failed to sign and return the declaration naming him as a joint inventor along with William A. Crossland.

In granting this petition, the Office is construing the letter to Yu dated 8 August, 2001, as including a copy of the application as filed (specification, including claims, drawings, if any, and the declaration). Petitioners **must** inform the Office if this is an incorrect interpretation.

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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DW 09-02

Tat Yu
University of Cambridge
Department of Engineering
Trumpington Street
Cambridge CB2 1PZ
UNITED KINGDOM

COPY MAILED

SEP 2 4 2002

OFFICE OF PETITIONS

In re Application of
Crossland et al.
Application No. 10/094,958
Filed: 12 March, 2002
For: ACTIVE BACKPLANE CIRCUITRY

Dear Mr. Yu:

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
Office of the Deputy Commissioner
for Patent Examination Policy

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8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON VA 22201

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SUITE 1400
ARLINGTON, VA 22201

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APR 17 2006

OFFICE OF PETITIONS

In re Application of :
Debuisschert et al. :
Application No. 10/094,985 : DECISION
Filed: March 12, 2002 : ON PETITION
Attorney Docket Number: PET-1940 :

This is a decision in response to the Request to Withdraw Holding of Abandonment, filed March 2, 2006. The correspondence is properly treated as a Petition to Withdraw Holding of Abandonment under 37 CFR 1.181.

The petition is **dismissed.**

Background

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly respond to the non-final Office action, mailed March 30, 2005. The Office action set a three (3) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No response having been received, the application became abandoned August 31, 2005. A Notice of Abandonment was mailed February 21, 2006.

The instant petition

Applicant files the instant petition wherein Applicant avers that a timely reply to the Office action was filed on August 5, 2005, and was received by this Office as evidenced by Applicant's return-receipt

postcard. In support off this assertion, Applicant provides a copy of his return-receipt postcard evidencing receipt of, *inter alia*, a reply to the Office action of 3/30/05, and petition for extension of time and check.

Further to this, Office records reveal receipt of the extension-of-time fee, assignment recordation fees and late filing fee oath or declaration surcharge by this Office on August 5, 2005; however, a review of the application file reveals that the reply to the Office action of 3/30/05; petition for extension of time; Request for correction of inventorship, statements under 37 CFR 1.48, and the 2 declarations and powers of attorney have not been located among the application papers therein. Moreover, Applicant, and despite Applicant's assertion in the petition, that a copy of these papers accompany the petition, the papers have not been located in the application file.

As such, the petition may not be granted at this time. Applicant must re-file the copies of the reply to the Office action of 3/30/05; petition for extension of time; Request for correction of inventorship, statements under 37 CFR 1.48, and the 2 declarations and powers of attorney.

In the interim, the file is being referred to the Director of Technology Center 3640 for a decision of the petition(s) for a retroactive foreign filing license, filed April 12, 2005.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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SUITE 1400
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JUN 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Debuisschert et al.	:	
Application No. 10/094,985	:	DECISION
Filed: March 12, 2002	:	ON PETITION
Attorney Docket Number: PET-1940	:	

This is a decision in response to the Renewed Petition Under 37 CFR 1.181, filed May 4, 2006.

The petition is **dismissed.**

Background

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly respond to the non-final Office action, mailed March 30, 2005. The Office action set a three (3) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No response having been received, the application became abandoned August 31, 2005. A Notice of Abandonment was mailed February 21, 2006.

The March 2, 2006 petition

Applicant filed a petition on March 2, 2006, wherein Applicant asserted that a timely reply to the Office action was filed on August 5, 2005, and was received by this Office as evidenced by Applicant's return-receipt postcard. In support off this assertion, Applicant provided a copy of his return-receipt postcard evidencing receipt of,

inter alia, a reply to the Office action of 3/30/05, and petition for extension of time and check.

Further to this, Office records revealed receipt of the extension-of-time fee, assignment recordation fees and late filing fee oath or declaration surcharge by this Office on August 5, 2005; however, a review of the application file revealed that the reply to the Office action of 3/30/05; petition for extension of time; Request for correction of inventorship, statements under 37 CFR 1.48, and the 2 declarations and powers of attorney were not among the application papers therein. Moreover, and despite Applicant's assertion in the petition - that a copy of these papers accompanied the petition - the papers were not located in the application file.

As such, the petition was not grantable as-filed. Applicant was asked to re-file the copies of the reply to the Office action of 3/30/05; petition for extension of time; Request for correction of inventorship, statements under 37 CFR 1.48, and the 2 declarations and powers of attorney.

The instant Renewed petition

Applicant files the instant renewed petition and copies of the amendment and etension of time request, and copies of the n reply to the Office action, petition for extension of time, request for correction of inventorship, statements under 37 CFR 1.48, and 2 declarations and powers of attorney.

A review of the amendment and petition for extension of time filed with the Renewed petition reveal that the amendment and petition are unexecuted.

Applicable Law, Rules and MPEP

37 CFR 1.33, Correspondence respecting patent applications, reexamination proceedings, and other proceedings, provides that amendments and other papers must be signed by [an appropriate party].

Further to this, the MPEP provides that "[a]n amendment must be signed by a person having authority to prosecute the application. An unsigned or improperly signed amendment will not be entered." See MPEP § 714.01(a).

Conclusion

In view of the foregoing, the petition is dismissed. Applicant has failed to demonstrate that a proper reply to the Office action was timely filed.

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

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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SUITE 1400
ARLINGTON, VA 22201

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OFFICE OF PETITIONS

In re Application of	:	
Debuisschert et al.	:	
Application No. 10/094,985	:	
Filed: March 12, 2002	:	DECISION ON
Attorney Docket Number: PET-1940	:	PETITION

This is a decision in response to the Renewed Petition under 37 CFR 1.181, filed July 17, 2006, and the status request filed July 17, 2006.

This Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly respond to the non-final Office action, mailed March 30, 2005. The Notice set a three (3) month period for reply. No response having been received, the application became abandoned on August 31, 2005. A Notice of Abandonment was mailed February 21, 2006.

The March 2, 2006 petition

Applicant filed a petition on March 2, 2006, wherein Applicant asserted that a timely reply to the Office action was filed on August 5, 2005, and was received by this Office as evidenced by Applicant's return-receipt postcard. In support of this assertion, Applicant provided a copy of his return-receipt postard evidencing receipt of, *inter alia*, a reply to the Office action of March 30, 2005; petition for extension of time and check.

Further to this, Office records revealed receipt of the extension-of-time fee, assignment recordation fees and late filing fee oath or declaration surcharge, by this Office on August 5, 2005; however, a review of the application file revealed that the reply to the Office action of March 30, 2005; petition for extension of time; Request for Correction of Inventorship, Statements under 37 CFR 1.48, and for the two Declarations and Powers of Attorney were not among the application papers therein. Moreover, and despite Applicant's assertion in the petition - that a copy of these papers accompanied the petition - the papers were not located in the application file.

Accordingly, the petition was not grantable as-filed. Applicant was asked to re-file the copies of the reply to the Office action of March 30, 2005; petition for extension of time; Request for Correction of Inventorship, Statements under 37 CFR 1.48, and the two Declarations and Powers of Attorney.

The May 4, 2006 renewed petition

Applicant filed a renewed petition on May 4, 2006 and copies of the Amendment and extension of time request, and copies of the reply to the Office action, petition for extension of time, request for correction of inventorship, statements under 37 CFR 1.48, and two declarations and powers of attorney.

A review of the amendment and petition for extension of time file with the Renewed petition revealed that the amendment and petition were unexecuted.

The petition was dismissed under 37 CFR 1.33 and MPEP 714.01(a) because the amendment and petition were unexecuted.

The instant (second) Renewed Petition

Applicant files the instant renewed petition and an executed copy of the amendment dated August 5, 2005; however, it is unclear whether the amendment was executed in response to the Decisions dismissing the petitions, or was executed on August 5, 2005. The second Renewed Petition does not state when the Amendment was executed. Petitioner has simply filed a copy of the amendment that is now executed.

In order for the Amendment to have been a complete and proper reply to the Office action, Petitioner must have executed the amendment on August 5, 2005. See 37 CFR 1.135

Petitioner must attest to the timely execution of the amendment for the record.

Alternative venue

Applicant may alternatively file a petition stating that the delay was unintentional. An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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

By mail: 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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OFFICE OF PETITIONS

In re Application of	:	
Debuisschert et al.	:	
Application No. 10/094,985	:	DECISION ON
Filed: March 12, 2002	:	PETITION
Attorney Docket Number: PET-1940	:	

This is a decision in response to the Renewed Petition under 37 CFR 1.181, filed October 25, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly respond to the non-final Office action, mailed March 30, 2005. The Notice set a three (3) month period for reply. No response having been received, the application became abandoned on August 31, 2005. A Notice of Abandonment was mailed February 21, 2006.

The March 2, 2006 petition

Applicant filed a petition on March 2, 2006, wherein Applicant asserted that a timely reply to the Office action was filed on August 5, 2005, and was received by this Office as evidenced by Applicant's return-receipt postcard. In support of this assertion, Applicant provided a copy of his return-receipt postard evidencing receipt of, *inter alia*, a reply to the Office action of March 30, 2005; petition for extension of time and check.

Further to this, Office records revealed receipt of the extension-of-time fee, assignment recordation fees and late filing fee oath or declaration surcharge, by this Office on August 5, 2005; however, a review of the application file revealed that the reply to the Office action of March 30, 2005; petition for extension of time; Request for Correction of Inventorship, Statements under 37 CFR 1.48, and for the two Declarations and Powers of Attorney were not among the application papers therein. Moreover, and despite Applicant's assertion in the petition – that a copy of these papers accompanied the petition – the papers were not located in the application file.

Accordingly, the petition was not grantable as-filed. Applicant was asked to re-file the copies of the reply to the Office action of March 30, 2005; petition for extension of time; Request for Correction of Inventorship, Statements under 37 CFR 1.48, and the two Declarations and Powers of Attorney.

The May 4, 2006 renewed petition

Applicant filed a renewed petition on May 4, 2006 and copies of the Amendment and extension of time request, and copies of the reply to the Office action, petition for extension of time, request for correction of inventorship, statements under 37 CFR 1.48, and two declarations and powers of attorney.

A review of the amendment and petition for extension of time file with the Renewed petition revealed that the amendment and petition were unexecuted. The petition was dismissed under 37 CFR 1.33 and MPEP 714.01(a) because the amendment and petition were unexecuted.

The July 17, 2006 (second) Renewed Petition

Applicant filed a second renewed petition on July 17, 2006, and an executed copy of the amendment dated August 5, 2005; however, it was unclear whether the amendment was executed in response to the Decisions dismissing the petitions, or was executed on August 5, 2005. The second Renewed Petition did not state when the Amendment was executed. Petitioner simply filed a copy of the amendment that is now executed.

The petition was dismissed in a Decision mailed October 16, 2006. The Decision stated that in order for the Amendment to have been a complete and proper reply to the Office action, Petitioner must have executed the amendment on August 5, 2005. See 37 CFR 1.135. Petitioner was required to attest to the timely execution of the amendment for the record.

The present (third) renewed Petition

Petitioner files the present petition and attests that the papers filed on August 5, 2005 were executed. Accordingly, the petition is granted.

The file is being referred to Technology Center Art Unit 1764 for processing of the amendment, and 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

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 6

WILLIAM D. BRENEMAN
3150 COMMONWEALTH AVENUE
ALEXANDRIA, VA 22305

COPY MAILED

OCT 1 1 2002

OFFICE OF PETITIONS

NOTICE

In re Application of :
Andreas Wawrla et al :
Application No. 10/094,990 :
Filed: March 12, 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 3700.

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 9

HOWREY SIMON ARNOLD AND WHITE LLP
750 BERING DRIVE
HOUSTON, TX 77057

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of
Mathias et al.
Application No. 10/094,999
Filed: March 11, 2002
Attorney Docket No.
12202.0004.PCUS00(PIZZ00)

DECISION ON PETITION

This is a decision on the "PETITION TO WITHDRAW ABANDONMENT," filed by Express Mail on February 23, 2004. Petitioner requests that, in the alternative, the Office revive the application under the provisions of 37 CFR 1.137(b) because the abandonment was unintentional.

The petition under § 1.181 is **DISMISSED**.

The petition under § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the restriction requirement mailed July 15, 2003. This Office action set a shortened statutory period for reply of one month, with extensions of time obtainable under § 1.136(a). No reply having been received in the Office and no extension of time obtained, the above-identified application became abandoned on August 16, 2003. A Notice of Abandonment was mailed on February 5, 2004.

In response, petitioner promptly filed the instant petition (and petition fee under § 1.137(b)), asserting that the response to the restriction requirement was timely filed by facsimile on August 18, 2003. The petition does not include a confirmation showing that the paper was properly faxed to the number both the petitioner states it was sent and the certificate of facsimile transmission states it was being sent. Rather, petitioner states that "it appears that whoever actually faxed this document decided to fax it to the other number indicated on the office action, even though this number is found nowhere within the documents to be faxed themselves or the USPTO automatically forwarded this fax to the other number." This argument and evidence have been considered, but not found persuasive that the response should be considered timely filed. See § 1.8(b). It is concluded that the abandonment should not be withdrawn.

Nonetheless, petitioner has met the requirements for a grantable petition under § 1.137(b). The petition includes the required reply, the statement of unintentional delay and the petition fee.

The application file is being forwarded to Technology Center Art Unit 3635 for consideration by the examiner of the response to restriction requirement filed February 23, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
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

PILLSBURY WINTHROP LLP
1600 TYSONS BOULEVARD
MCLEAN VA 22102

COPY MAILED

MAR 0 8 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hideo Ando :
Application No. 10/095,007 :
Filed: March 12, 2002 :
Attorney Docket No. P 290789 T4KN- 01S1055 :

This is a decision on the petition, filed March 2, 2006, and supplemented on March 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 12, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

---

[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 2652 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

cc:
PILLSBURY WINTHROP SHAW PITTMAN
P.O. BOX 10500
MCLEAN VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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INTELLECTUAL PROPERTY DEPARTMENT
HUNTON & WILLIAMS
SUITE 1200
1900 K STREET, N.W.
WASHINGTON DC 20006-1109

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FEB 23 2006

OFFICE OF PETITIONS

In re Application of	:	
David M. Smith	:	
Application No. 10/095,023	:	ON PETITION
Filed: March 12, 2002	:	
Attorney Docket No. 21323.000319	:	

This is a decision on the petition, filed February 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 28, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2881 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : February 23, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

COPY MAILED
FEB 23 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Davis M. Smith
Application No. :10/095,023
Filed :March 12, 2002

The above-identified application has been assigned Patent No. 7,012,269 and an issue date of March 14, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 14, 2006:

> "All reference to Patent No. 7,012,269 to David M. Smith of Virginia for RADIATION SHIELDING appearing in the Official Gazette of March 14, 2006 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 030804

MAR 18 2004

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

In re Application of:
TATSUTA *et al.*
Serial No.: 10/095,056
Filed: March 12, 2002
Attorney Docket No.: **Q68898**

DECISION ON PETITION TO RESTART THE PERIOD FOR RESPONSE

This is a decision on the petition filed on February 26, 2004, to restart the period for response due to late receipt of the Office action mailed on October 31, 2003. No petition fee is required.

The petition is **GRANTED.**

Petitioner asserts that the Office action mailed October 31, 2003, was not received at the correspondence address until February 20, 2004, when a copy was sent via facsimile by the examiner. In support of these assertions, petitioner provided a copy of the facsimile cover page of the Office action received bearing a "received" date stamp of February 20, 2004, and a copy of the docket record where the Office action would have been entered if it were received.

A grantable petition to restart the previously set period for reply, pursuant to M.P.E.P. § 710.06, should meet the following criteria:

(A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address;

(B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and

(C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address.

The petition satisfies the above criteria. Accordingly, the petition is granted, and the period for response is hereby reset to run three (3) months from February 20, 2004, the date of receipt of the Office action, and expires on May 20, 2004.

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

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

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

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AUG 0 6 2002

OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria VA 22320

In re Application of
Nishi, et al.
Application No. 10/024,147
Filed: December 21, 2001
Attorney Docket No. 040144.05

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed April 19, 2002, in response to the "Notice of Omitted Items in Nonprovisional Application (the 'Notice").

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 1.182." This is not a final agency decision.

The application was filed on December 21, 2001. The Notice mailed April 10, 2002, indicated that the application had been granted a filing date, but stated that pages 104-107 of the specification appeared to have been omitted from the application.

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

Petitioner does not assert that application filed December 21, 2001, included pages 104-107 of the specification, however; petitioner does argue that the transmittal sheet that the accompanied the application identified the above-cited application as a divisional application of application No. 09/666,407 and specifically incorporated by reference the entire disclosure of the prior application.

An applicant may incorporate by reference the prior application by including in the application-as-filed, a statement that such specifically enumerated prior application or application are "hereby incorporated by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior applications(s) will permit an applicant to amend the divisional application to include any subject matter in such prior application(s) , without the need for a petition. See MPEP 201.06(c).

In view of the incorporation by reference of the prior application, pages 104-107 are not new matter if they were a part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 21, 2001.

Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of the petition filed April 19, 2002 as a supplemental preliminary amendment requesting entry of pages 104-107 of the specification.

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

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, DC 20231

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

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

Telephone inquiries should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: 5/23/05

spg

In re application of Kenji Terao et al. Serial No. 10/095,089 Filed: March 12, 2002 For: METHOD OF AND APPARATUS FOR PULLING UP CRYSTAL	: : : : : : :	DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed May 6, 2004 . The petition requests that the abandonment, as set forth in the Notice of Abandonment of April 30, 2004, for failure to timely file a proper reply to the Office letter mailed September 25, 2003 be withdrawn since the applicants did timely file a reply on October 2, 2003. (A copy of the reply is attached to the 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 2, 2003 as evidenced by the copy of the USPTO date stamped return receipt postcard indicating receipt of the reply at the USPTO on October 2, 2003. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed September 25, 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 2, 2003.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

UNITED STATES PATENT AND TRADEMARK OFFICE

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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SEP 24 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Takao Takiguchi et al :
Application No. 10/095,095 :
Filed: March 12, 2002 :
Attorney Docket No. 00684.003348 :

This is a decision on the petition, filed September 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1774 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

COPY MAILED

MAR 2 8 2007

OFFICE OF PETITIONS

In re Patent No. 6,780,237 :
Issued: August 24, 2004 :
Application No. 10/095,097 : ON PETITION
Filed: March 12, 2002 :
Attorney Docket Number: 608-337 :

This is a decision on the petition filed November 1, 2006, under 37 CFR 3.81(b) [1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the failure to include the correct assignee on the Fee(s) Transmittal form PTOL-85(b) filed March 2, 2004 was inadvertent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct name of the assignee on the front page of the Letters Patent.

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

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

A request for certificate of correction was filed October 13, 2004 and dismissed in a decision mailed October 28, 2005 since the request was not accompanied by a petition under 37 CFR 3.81.

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[1] *See* Official Gazette of June 22, 2004

Office assignment records however, reflect that MINOVA INTERNATIONAL LIMITED is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee in the amount of $130.00 and the fee for the certificate of correction in the amount of $100 have been applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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DEC 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Thomas S. Camino, et al.	:	
Application No.: 10/095,129	:	ON PETITION
Filed: March 12, 2002	:	
Attorney Docket No.: 1671-0230	:	

This is a decision on the petition, filed December 18, 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 November 22, 2006, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated November 20, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

The application is being referred to Technology Center AU 3738 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MAGINOT, MOORE & BECK, LLP
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE
SUITE 3250
INDIANAPOLIS, IN 46204-5109

UNITED STATES 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. O'NEIL. P.C.
8150 NORTH CENTRAL EXPRESSWAY
SUITE 1150
DALLAS TX 75206

MAILED
JUN 18 2010
OFFICE OF PETITIONS

In re Patent No. 6,465,699	:	
Issue Date: October 15, 2002	:	
Application No. 10/095,140	:	ON PETITION
Filed: March 11, 2002	:	
Attorney Docket No. 300100-1051	:	

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**.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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 concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Larissa Piccardo
Baker Botts L.L.P.
One Shell Plaza
910 Louisiana
Houston TX 77002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

MAIL

NOV 22 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:

10/095,150

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Steve Volk
Chairman of the Board
DataPlay, Inc.
2560 55th Street
Boulder, CO 80301-5706

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

STEVE VOLK
CHAIRMAN OF THE BOARD
DATAPLAY, INC.
2560 55TH STREET
BOULDER, CO 80301-5706

MAILED

FEB 04 2003

Technology Center 2600

In re Application Serial No.:

10/095,150

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request filed 12/24/02 to Withdraw as Attorney is **DISMISSED AS MOOT**.

The petitioner, James E. Parsons, is no longer of record as attorney and agent. Therefore, he cannot request a change of address.

There appears to be two addresses for the applicant. If the address of record (above) is improper, applicant must submit a formal Change of Correspondence Address.

Further communications will continue to be directed to the address of record listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Skjerven Morrill LLP
25 Metro Drive
Suite 700
San Jose, CA 95110

cc: Alan MacPherson
MacPherson Kwok Chen & Heid LLP
2001 Gateway Place, Suite 195
San Jose, CA 95110

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

KIRKPATRICK & LOCKHART
535 SMITHFIELD STREET
PITTSBURGH, PA 15222-2312

COPY MAILED
MAY 0 3 2002
OFFICE OF PETITIONS

In re Application of	:	
Nicholas G. Sotereanos	:	
Application No. 10/095,181	:	NOTICE
Filed: March 11, 2002	:	
Attorney Docket No. 010588	:	

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 3728.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 13

DAVID JOSEPH WALKER
101 OAK BROOK
LAFAYETTE, LA 70598

COPY MAILED

JUN 28 2005

OFFICE OF PETITIONS

In re Application of
Walker et al.
Application No. 10/095,182
Filed: March 11, 2002
Attorney Docket No. 020569.06100

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 11, 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 July 10, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 11, 2003. A Notice of Abandonment was mailed February 9, 2004.

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

There is no indication that the person signing the instant petition was ever properly given a power of attorney or authorization of agent to prosecute the above-identified application. The Power of Attorney submitted on May 7, 2003 was not proper due to the lack of a statement under 37 CFR 3.73(b), permitting an assignee to take action in an 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 solely to the address currently of record until such time as appropriate instructions are received to the contrary.

The file is being forwarded to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

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

cc: ALBERT B. DEAVER, JR.
LOCKE LIDDELL & SAPP LLP
600 TRAVIS
3400 CHASE TOWER
HOUSTON, TX 77002-3095

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 08-02

Paper No. 5

OPPENHEIMER WOLFF & DONNELLY
P. O. BOX 10356
PALO ALTO CA 94303

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AUG 2 7 2002
OFFICE OF PETITIONS

In re Application of	:
Berkowitz, Shey, Vancraeynest, and	: DECISION REFUSING STATUS
Vasconcellos	: UNDER 37 CFR 1.47(a)
Application No. 10/095,209	:
Filed: 8 March, 2002	:
Attorney Docket No. 16523-311801	:

This is a decision in response to the petition under 37 CFR 1.47(a) filed on 12 June, 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 4 April, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. In response, on 12 June, 2002 (certificate of mailing date 4 June, 2002), petitioners submitted the present

petition, the required fees, and a declaration naming Paul Berkowitz, Chauncey Shey, Jan Vancraeynest, and Jose Vasconcellos as joint inventors and signed by all of the joint inventors except Shey.

Petitioners state that a letter was sent to Shey asking him to sign the declaration, but the letter was returned as undeliverable. Shey, therefore, cannot now be located.

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 sufficient proof that diligent efforts were made to locate the non-signing inventor.[1] Although petitioners state that copy of a Federal Express receipt showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable was enclosed with the petition, no such receipt is located among the papers received with the present petition on 12 June, 2002.

Furthermore, at a minimum, petitioners must sent or give a copy of the application papers (specification, including the claims, drawings, if any, and the declaration) to the non-signing inventor at the inventor's last known address. Petitioners may show diligent efforts to locate the non-signing inventor by providing a copy of an envelope showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

---

[1] MPEP 409.03(d).

Additionally, if Shey no longer lives at the last known address, petitioners may show diligent efforts (*e.g.*, by use of Internet or other database searches) to determine a current address for the non-signing inventor. If a more recent address is discovered, petitioners should send or give a copy of the application papers to the inventor at that address.

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

OPPENHEIMER WOLFF & DONNELLY
P. O. BOX 10356
PALO ALTO CA 94303

COPY MAILED

NOV 0 5 2002

OFFICE OF PETITIONS

In re Application of	:
Berkowitz, Shey, Vancraeynest, and	:
Vasconcellos	: DECISION NOTING JOINDER OF
Application No. 10/095,209	: INVENTOR AND PETITION UNDER
Filed: 8 March, 2002	: 37 CFR 1.47(a) MOOT
Attorney Docket No. 16523-311801	:

Papers filed on 29 October, 2002 (certificate of mailing date 23 October, 2002), in reply to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on 27 August, 2002, included a Declaration signed by the previously non-signing joint inventor, Chauncey Shey in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVIS WRIGHT TREMAINE, LLP
1201 THIRD AVENUE, SUITE 2200
SEATTLE WA 98101-3045

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of Mary E. Brunkow et al Application No. 10/095,248 Filed: March 7, 2002 Attorney Docket No. 60117-29	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed February 21, 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 RCE and a previously filed amendment on October 10, 2006; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejecton of July 11, 2006, is accepted as having been unintentionally delayed.

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

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

This matter is being referred to Technology Center AU 1656.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

CC:
MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606-6357

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

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OFFICE OF PETITIONS

In re Patent of Brunkow et al.	:	DECISION ON REQUEST
Patent No. 7,572,899	:	FOR RECONSIDERATION OF
Issue Date: August 11, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/095,248	:	AND NOTICE OF INTENT TO
Filing Date: March 7, 2002	:	ISSUE CERTIFICATE OF
Attorney Docket No. 31173/40001	:	CORRECTION

This is a decision on the petition filed October 9, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d)[1] requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by seven hundred forty-two (742) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by seven hundred forty-two (742) days is **GRANTED to the extent indicated herein**.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

Facts

The Office mailed a final Office action on July 11, 2006. Although an amendment was filed October 10, 2006, the examiner determined the reply was not a proper reply to the final Office action. As a result, the application became abandoned on October 12, 2006.

A petition to revive under 37 C.F.R. § 1.137(b) and request for continued examination ("RCE") were filed February 21, 2007. The Office mailed a decision granting the petition to revive on June 21, 2007.

[1] The title of the petition indicates the petition is being filed under 37 C.F.R. § 1.705(b). However, a petition requesting a review of the patent term adjustment appearing on a patent is properly considered under 37 C.F.R. § 1.705(d).

B Delay

Patentees contend the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 716 days.

Pursuant to 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include any time period consumed by continued examination.

The RCE was filed with a petition to revive during the period of abandonment. The time period consumed by continued examination did not begin until the Office granted the petition to revive. In other words, for purposes of determining patent term adjustment, the RCE was "filed" June 21, 2007.

As a result of the period of time consumed by continued examination beginning June 21, 2007, the period of B Delay is 835 days.

Overlap

The petition states, "According to Patentee's calculations, 67 days of 'A Delay' occurred during the overlap period (March 8, 2005 through February 21, 2007)." The last date of B Delay was June 20, 2007. The 67-day period of A Delay began on June 22, 2007, and ended on August 27, 2007. Since the 67-day period of A Delay began after the last date of B Delay, the number of days of overlap between A Delay and B Delay is zero days.

Conclusion

In view of the prior discussion, the patent term adjustment is nine hundred twenty-eight (928) days, which is the sum of 480 days of A Delay and 835 days of B Delay reduced by 387 days of Applicant Delay.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **nine hundred twenty-eight (928)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,572,899 B2
ISSUE DATE	:	August 11, 2009
INVENTOR(S)	:	Brunkow et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 396 days.

Delete the phrase "by 396 days" and insert - by 928 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/16/2006

TO SPE OF : ART UNIT **1700 (1723)**

SUBJECT : Request for Certificate of Correction on Patent No.: **6,749,755**

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** - Tel. No. 305-8309

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

Ok to add references as requested in C of C?

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

892 (IDS) omitted from prior allowance

Harold Walker
SPE

1723
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 2 7 2005
OFFICE OF PETITIONS

Meir Ibguy
632 Kings Hwy, apt. 3C
Brooklyn, NY 11223

In re Application of :
Meir Ibguy :
Application No. 10/095,356 : ON PETITION
Filed: March 12, 2002 :
Attorney Docket No.

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

The petition is **DISMISSED**.

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

The record reflects that the non-final Office action was mailed on November 19, 2003, and set a three (3) month period for reply. The applicant filed an amendment on January 20, 2004. The examiner issued another non-final Office action on February 9, 2004, after determining that the amendment was a bona-fide attempt at a reply, but did not place the application in condition for allowance. The above-identified application became abandoned for failure to reply to the non-final Office action mailed February 9, 2004, which set a shortened statutory period for reply of one (1) month from its mailing date. No response was received within the allowable period, and the application became abandoned on March 10, 2004. A Notice of Abandonment was mailed on February 17, 2005.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks items (2) and (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"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. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

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."[7]

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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, 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 Defence 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]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

Application of the standard to the current facts and circumstances

As to item (2), the correct petition fee did not accompany the instant petition. The amount of $55.00 was found with the petition, however; the fee for a petition under 37 CFR 1.137(a) is $500.00 for a large entity and $250.00 for a small entity. See 37 CFR 1.117(l). The outstanding amount for the petition fee must accompany any renewed petition filed.

Petitioner maintains that the abandonment of the above-cited application was unavoidable because petitioner allegedly mailed a response to the February 9, 2004, non-final Office action on April 23, 2004, which was either lost in the mail or lost upon receipt at the Office.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reason petitioner's argument must necessarily fail are addressed below.

It is should first be noted that the response was allegedly mailed on April 23, 2004, and that no extensions of the time set for reply in the non-final Office action was obtained within the allowed period. The non-final Office action of February 9, 2004, set a one-month period for reply, therefore, the period for response—without any extensions of time—expired at midnight on March 9, 2004. Even if it is assumed that a response was mailed on April 23, 2004, the response would not have been entered because it would have been untimely and the application would have still become abandoned.

Further, there is no evidence that petitioner used the procedures provided in 37 CFR 1.8 and 1.10, which, if properly utilized, would allow a filing to be accorded a filing date as of the date mailed or deposited, respectively, rather than the date the filing was received by the Office. The certificate of mailing procedures under 37 CFR 1.8 allow for a filing date to be accorded as of the date the filing was mailed rather than the date the filing was received by the Office provided the procedures set out in 37 CFR 1.8 are followed and the filing is not excepted under 37 CFR 1.8(2)(i). The procedures under 37 CFR 1.10 allow correspondence deposited with the United States Postal Service Express Mail Service pursuant to 37 CFR 1.10 to be accorded a filing date as of the date-in shown on the Express Mail label rather than the date the filing was received by the Office. Filings made by any other mail service, i.e., 1st class postage, FEDEX, Priority Mail, or Airborne Express, will not receive the benefit of 37 CFR 1.10.

---

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]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 nonawarness 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.

If petitioner used the certificate of mailing procedures under 37 CFR 1.8 and had an appropriate certificate of mailing on the amendment and petitioner was able to provide the Office with a copy of the same, the amendment would have been accorded a filing date as of the date of the certificate of mailing. Further, if petitioner was able to provide a copy of the Express Mail label of the package that was used to send the amendment via Express Mail and the other procedures under 37 CFR 1.10 were followed, the amendment would have been accorded a filing date as of the date-in as found on Express Mail label. The delay in filing a reply to the non-final Office action cannot be considered unavoidable as it could have been avoided with the appropriate use of either the procedures under 37 CFR 1.8 or the procedures under 37 CFR 1.10. Petitioner's attention is called to Section 711.03(c)(2) of the *Manual of Patent Examining Procedure* (MPEP) which reads, in pertinent part, " . . . a reasonably prudent person would file papers or fees in compliance with 37 CFR 1.8 of 1.10 to ensure the timely filing in the PTO, as well as preserve adequate evidence of such filing, a delay caused by applicant's failure to file papers or fees in compliance with 37 CFR 1.8 or 1.10 does not constitute unavoidable delay." It may be concluded, therefore, that petitioner's failure to file the reply in compliance with 37 CFR 1.8 and/or 1.10 implies imprudence in the prosecution of the application which defeats petitioner's claim that the delay in filing the required reply was unavoidable. The petition is dismissed, accordingly.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1500.00 for a large entity and $750.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Meir Ibguy
632 Kings Hwy, apt. 3C
Brooklyn NY 11223

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of

Meir Ibguy

Application No. 10/095,356

Filed: March1 2, 2002

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), May 16, 2005, to revive the above-identified application.

The petition is **dismissed**.

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

The record reflects that the non-final Office action was mailed on November 19, 2003, and set a three (3) month period for reply. The applicant filed an amendment on January 20, 2004. The examiner issued another non-final Office action on February 9, 2004, after determining that the amendment was a bona-fide attempt at a reply, but did not place the application in condition for allowance. The above-identified application became abandoned for failure to reply to the non-final Office action mailed February 9, 2004, which set a shortened statutory period for reply of one (1) month from its mailing date. No response was received within the allowable period, and the application became abandoned on March 10, 2004. A Notice of Abandonment was mailed on February 17, 2005.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application 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 (3) above.

Petitioner is advised that only the first page of the petition, Form PTO/SB/64, was found. The second page of Form PTO/SB/64 contains the statement of unintentional delay and a place for petitioner's signature. The second page was not found with the petition filed May 16, 2005. The petition must, therefore, be dismissed because petitioner has not made the statement of unintentional delay as required by 37 CFR 1.137(b). The renewed petition must include the second page of Form PTO/SB/64, which is enclosed for petitioner's convenience.

The petition fee of $750.00 is noted and credited to the application.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Meir Ibguy
632 Kings Hwy, Apt. 3C
Brooklyn, NY 11223

COPY MAILED

JUN 22 2005

OFFICE OF PETITIONS

In re Application of

Meir Ibguy :

Application No. 10/095,356

: DECISION ON PETITION

Filed: March 12, 2002

:

Attorney Docket No.

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 16, 2005, to revive the above-identified application.

The renewed petition is **GRANTED**.

The record reflects that the non-final Office action was mailed on November 19, 2003, and set a three (3) month period for reply. The applicant filed an amendment on January 20, 2004. The examiner issued another non-final Office action on February 9, 2004, after determining that the amendment was a bona-fide attempt at a reply, but was not signed and dated. The February 9, 2004, notice set a one month period for reply. No response was received within the allowable period, and the application became abandoned on March 10, 2004. A Notice of Abandonment was mailed on February 17, 2005. A petition under 37 CFR 1.137(b) was filed on May 16, 2005, and dismissed by a decision mailed June 9, 2005. The instant renewed petition was filed on June 16, 2005.

The application is being forwarded to Technology Center 2600, GAU 2632 for further processing.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 07-02

Paper No. 4

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

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JUL 1 9 2002

OFFICE OF PETITIONS

In re Application of	:	
Tyler Norenberg	:	
Application No. 10/095,360	:	DECISION GRANTING PETITION
Filed: 11 March, 2002	:	
Attorney Docket No. 1598.001US1	:	

This is a decision on the petition filed on 20 May, 2002, requesting that the above-identified provisional application be accorded a filing date of 11 March, 2002.

The application was filed on 11 March, 2002, without drawings. Accordingly, on 16 April, 2002, Initial Patent Examination Division mailed a "Notice of Incomplete Provisional Application" requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings.

On 20 May, 2002, the present petition was filed. Petitioners argue that drawings were among the application papers deposited on 11 March, 2002, and request that the application be accorded a filing date of 11 March, 2002. The petition is accompanied by a copy of an itemized postcard receipt bearing the application number of the present application and an "Office date" of 11 March, 2002, and purporting to itemize the filing 5 sheets of drawings. The postcard indicates, however, that the USPTO did not receive the 5 sheets of drawings.

A review of the official file reveals that no sheets of drawings are located among the application papers received in the Office on 11 March, 2002. Petitioners may not rely on the return postcard because the postcard reflects that the USPTO did *not* receive the drawings on 11 March, 2002. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in

the USPTO.[1] Therefore, the postcard receipt does not show receipt of the drawings in the USPTO on 11 March, 2002.

A review of the record reveals that Claims 13-17, however, are method claims. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date without the drawings.

In view of the above, the "Notice" mailed 16 April, 2002, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of 11 March, 2002, without drawings as a part of the original disclosure. The fee of $130.00 paid with the present petition will be refunded to counsel's deposit account, No. 19-0743.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to 11 March, 2002, and an indication in USPTO records that zero (0) 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

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[1] MPEP 503.

[2] MPEP 601.01(f).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 23 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

David A. Jackson
KLAUBER & JACKSON
4th Floor
411 Hackensack Street
Hackensack, NJ 07601

Paper No. 12

In re Application of
Juan Luis Bellvis Castillo
Application No. 10/095,414
Filed: March 11, 2002
For: DYNAMIC FOOTREST

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's Petition to Withdrawal the Holding of Abandonment filed in the United States Patent and Trademark Office on August 18, 2003.

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 July 16, 2003, with a Certificate of Mail date of July 14, 2003, has been found and matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition then to the examiner for prompt action on the response.

cps/1/25/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David A. Jackson
KLAUBER & JACKSON
4th Floor
411 Hackensack Street
Hackensack NJ 07601

MAILED

MAR 16 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of
Juan Luis Castillo
Application No. 10/095,414
Filed: March 11, 2002
For: DYNAMIC FOOTREST

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

The decision mailed February 23, 2004 granting the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on January 15, 2004 is hereby **VACATED** and a new decision is rendered as set forth below.

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 December 11, 2003 has been found and matched with the application.

The period within which to file the Appeal Brief is set to run **TWO MONTHS** from the mailing date of this decision.

KJD/mjz: 3/12/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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

td

SEP - 3 2004

Mailed:

In re application of	:	
Yoshihiro Iizawa et al.	:	DECISION ON
Serial No. 10/095,457	:	PETITION
Filed: March 13, 2002	:	
For: GLASS LINING APPLICATION METHOD		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed March 23, 2004.

The instant petition was filed on June 10, 2004. In the petition, it is urged that the final office action mailed March 23, 2004 was improperly made final.

DECISION

It is noted that the instant application has been allowed. A notice of allowance was mailed on July 15, 2004 thereby making the instant petition moot. Accordingly the petition is **DISMISSED.**

JMStone

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

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

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Paper No.

VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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MAR 23 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Manfred Dombek et al :
Application No. 10/095,466 :
Filed: March 13, 2002 :
Attorney Docket No. 31512-178343 :

This is a decision on the petition, filed March 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to 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 1731 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Director's Office
Office of Patent Publication

NORMAN KEN OUCHI
P.O. BOX 20111
SAN JOSE, CA 95160

In re Application of :
OUCHI, NORMAN KEN, et al. :
Application No. 10/095,485 : **DECISION ON PETITION**
Filed: March 11, 2002 :

This is a decision on the Petition To Rescind Abandonment 37 C.F.R.§ 1.181, received in the United States Patent and Trademark Office (USPTO) via facsimile transmission on January 23, 2006 for the above-identified Application.

The Notice of Rescinded Abandonment mailed January 24, 2006 was incorrect and hereby **VACATED.**

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The application was held abandoned for applicant's failure to timely pay the issue fee and publication as required in the Notice of Allowance and Issue Fee Due, mailed August 9, 2005, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed on January 11, 2006.

Petitioner states that the fees were paid by check sent on June 1, 2005. Also, that Ms Betty Powell at the Image Assistance Center said that the system indicates that the fees were processed on June 6, 2005.

Review of the application file reveals that, on June 28, 2005 the Notice Of Withdrawal From Issue Under 37 CFR 1.313(b) was mailed, indicating that the application is withdrawn from issue after payment of the issue fee to determine patentability. See 37 CFR 1.313(b)(1). The Notice further indicates that, if the application is again found allowable, the issue fee paid can be applied toward the new Notice of Allowance, which was mailed on August 9, 2005, upon written request.

The request to apply the issue fee to the new Notice could have been satisfied by simply completing and returning the new Issue Fee Transmittal Form PTOL-85B.

Also, Petitioner appears to not have read the bold text in the new Notice of Allowance and Fee(s) Due, which states:

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THE APPLICATION. THE PTOL-85B (0R AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

Failure to submit the PTOL-85B, Fee(s) Transmittal resulted in the proper abandonment of the application.

Petitioner may seek relief by filing a Petition for Revival of Abandoned Application under 37 CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

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

Telephone inquires relating to this matter may be directed to the Office of Petitions at 571-272-3282.

Thomas E. Hawkins

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

NORMAN KEN OUCHI
PO BOX 20111
SAN JOSE CA 95160

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of Norman Ken Ouchi Application No. 10/095,485 Filed: March 11, 2002 Title: Catalog, Catalog Query, and Item Identifier for Configurable Items	: : : : :	ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 14, 2006 and February 28, 2006, and the petition to revive under 37 CFR 1.137(b), filed May 22, 2006.

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

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

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Allowance mailed August 9, 2005. This Office action set a statutory period for reply of three (3) months. No reply having been received, the above-identified application became abandoned on November 10, 2005. A Notice of Abandonment was mailed on January 11, 2006.

Petition Under 37 CFR 1.181:

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action **must** be submitted..."[2]

Here, petitioner simply states that he did not receive the Notice of Allowance, but has failed to attest to the fact that he searched his file jacked and docket records. Moreover, petitioner has failed to included a copy of a docket report evidencing non-receipt of the Notice of Allowance.

Petition Under 37 CFR 1.137(b):

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of a PTOL-85b issue fee transmittal form, and made the proper statement of unintentional delay.

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

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] See MPEP 711.03(c)(II).

[2] Id (emphasis added).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-07

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Patent No. 7,034,114	:	
Issued: 25 April, 2006	:	
Application No. 10/095,492	:	ON PETITION
Filed: 12 March, 2002	:	
Atty Docket No. CIBT-P02-019	:	

This is a decision in reference to the petition filed on 19 October, 2005, which is treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Office apologizes for the delay in responding to the present request and regrets any inconvenience to petitioners.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CANTOR COLBURN LLP - BELLSOUTH
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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OFFICE OF PETITIONS

In re Application of	:	
William S. Burnham	:	
Application No. 10/095,528	:	DECISION ON PETITION
Filed: March 13, 2002	:	
Attorney Docket No. BS02-016	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 28, 2006, 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 September 20, 2005. A Notice of Abandonment was mailed on May 4, 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 Notice of Appeal and appeal fee; (2) the petition fee of 1,500; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2617 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred 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
www.uspto.gov

Paper No. 5

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AUG 2 8 2002

OFFICE OF PETITIONS

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

In re Application of
Walker, *et al.*
Application No. 10/095,538
Filed: March 11, 2002
Attorney Docket No. 02-006

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

This is in response to the May 15, 2002 petition under 37 C.F.R. §1.47(a).

Applicant filed the above-identified application on March 11, 2002. However, the declaration required by 37 C.F.R. §1.53 was missing. Accordingly, on April 9, 2002, the Office of Initial Patent Examination (hereinafter "OIPE") mailed a notice to file missing parts (hereinafter "the notice") to the address of record. The notice set a two month deadline for responding, running from the mail date of the notice.

Petitioner timely filed his response to the notice on May 15, 2002.

The above-identified application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the OIPE for further processing under rule 1.47(a).

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-5593

Scott M. Ledford
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
WASHINGTON, D.C. 20231
www.uspto.gov

Thomas Sparico
525 East 72nd Street
Apartment 23F
New York, NY 10021

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AUG 2 8 2002

OFFICE OF PETITIONS

In re Application of
Walker, *et al.*
Application No. 10/095,538
Filed: March 11, 2002
Attorney Docket No. 02-006

Dear Mr. Sparico:

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 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 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 or 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 703-306-5593. 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).

Scott M. Ledford
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

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

U.S. Philips Corporation
580 White Plains Road
Tarrytown, NY 10591

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SEP 16 2002

OFFICE OF PETITIONS

In re Application of
Peter Tjin Sjoe Kong Tsang
Application No. 10/095,554
Filed: March 12, 2002
Attorney Docket No. NL 010156

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

This is in response to the petition filed under 37 CFR 1.47(a) on August 19, 2002.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Jonathan Farringdon has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of petitioner's registered patent counsel, Eric M. Bram, establishes that the non-signing inventor was sent a copy of the application, but by his actions both verbal and non-verbal, refuses to sign the declaration.

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

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

.

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

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-4497.

Patricia Faison-Ball

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper 6

Jonathan Farringdon
c/o Bodymedia Inc.
4 Smithfield St.
12th Floor
Pittsburgh, PA 15222

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SEP 16 2002

OFFICE OF PETITIONS

In re Application of
Peter Tjin Sjoe Kong Tsang
Application No. 10/095,554
Filed: March 12, 2002
Attorney Docket No. NL 010156
For: FLEXIBLE LIQUID CRYSTAL DISPLAY

LETTER

Dear Mr. Farringdon:

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

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

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

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

cc:
U.S. Philips Corporation
580 White Plains Road
Tarrytown, NY 10591

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

Joseph C. Spadacene
Westinghouse Electric Company, LLC
4350 Northern Pike
Monroeville, PA 15146

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MAR 1 0 2004

OFFICE OF PETITIONS

In re Application of
Donn Moore Matteson
Application No. 10/095,562
Filed: March 11, 2002
Attorney Docket No. N2000-008

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed by facsimile transmission on January 2, 2004[1], which is being treated as a petition under 37 CFR 1.8(b), to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The above-identified application was erroneously held abandoned for failure to reply in a timely manner to the non-final Office action mailed May 15, 2003, which set a shortened statutory period for reply of three (3) months.

Petitioner states that the response to the non-final Office action was timely transmitted via facsimile transmission on August 6, 2003. The petition complies with 37 CFR 1.8(b) in that (1) the Office was promptly informed of the previous timely facsimile submission, (2) a copy of the previously transmitted correspondence with a certificate of facsimile transmission thereon has been supplied, and (3) a statement which attests to the previous timely transmission has been submitted, along with a copy of the report confirming transmission.

In view of the above, the holding of abandonment is hereby withdrawn and the application is restored to pending status. Accordingly, no petition fee is required.

The application file is being forwarded to Technology Center 3600, for review of the Rule 111 amendment filed with the instant petition.

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

Frances Hicks
Lead Petitions Examiner

[1]The evidence is convincing that the original response was timely filed by facsimile transmission on August 6, 2003, and subsequently misplaced within the USPTO.

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)
6552565	2003-04-22	10095590	2002-03-11	REAP0479USA

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/WINSTON HSU/	Date (YYYY-MM-DD)	2007-09-07
Name	WINSTON HSU	Registration Number	41526

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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In re Patent No. 6552565
Issue Date: April 22,2003
Application No. 10095590
Filed: March 11,2002
Attorney Docket No. YUSO-145

:

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

:

This is a decision on the electronic petition, filed September 7,2007 ,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 7,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BARNES & THORNBURG
11 SOUTH MERIDIAN STREET
INDIANAPOLIS, MN 46204

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NOV 2 9 2004

OFFICE OF PETITIONS

In re Application of	:
David C. Newkirk et al	:
Application No. 10/095,593	: DECISION GRANTING PETITION
Filed: March 11, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7175-69436	:

This is a decision on the petition, filed November 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 3673 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WAYNE J COLTON INC
THE MILAM BUILDING SUITE 1032
115 EAST TRAVIS STREET
SAN ANTONIO TX 78205

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OFFICE OF PETITIONS

In re Application of :
Richard C. Vogel et al. :
Application No. 10/095,600 : ON PETITION
Filed: March 11, 2002 :
Attorney Docket No. 1052.1333 :

This is a decision on the petition filed January 24, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned June 16, 2004 for failure to timely pay the issue fee on or before June 15, 2004, in response to the Notice of Allowance mailed March 15, 2004. Accordingly, a Notice of Abandonment was mailed July 22, 2004.

The issue fee and petition fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
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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Paper No. 15

RICK MARTIN
PATENT LAW OFFICES OF RICK MARTIN, PC
416 COFFMAN STREET
LONGMONT, CO 80501

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OFFICE OF PETITIONS

In re Application of
Riggio et al.
Application No. 10/095,622
Filed: March 11, 2002
Attorney Docket No. RM386d

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 8, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed December 4, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 5, 2003. A Notice of Abandonment was mailed on July 1, 2003.

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

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 14

MICHAEL A. MORRA
ROOM 2H-02
2000 NORTHEAST EXPRESSWAY
NORCROSS, GA 30071

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OFFICE OF PETITIONS

In re Application of	:	
Fett et al.	:	
Application No. 10/095,651	:	ON PETITION
Filed: March 12, 2002	:	
Attorney Docket No. 1-1-1-1-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 21, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office action mailed July 2, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 3, 2003. A Notice of Abandonment was mailed February 9, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks items (1). The Amendment submitted to the Examiner on May 21, 2004 failed to place the above-identified application in condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application. The Advisory Action issued by the Examiner is enclosed.

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the existing Customer Window located at:

2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

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

Liana Chase

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

Enclosure: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

MICHAEL A. MORRA
ROOM 2H-02
2000 NORTHEAST EXPRESSWAY
NORCROSS, GA 30071

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OFFICE OF PETITIONS

In re Application of	:	
Fett et al.	:	
Application No. 10/095,651	:	ON PETITION
Filed: March 12, 2002	:	
Attorney Docket No. 1-1-1-1-1	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed July 26, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed July 2, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 3, 2003. A Notice of Abandonment was mailed on February 9, 2004.

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

The Notice of Appeal filed July 26, 2004, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

The file is now being forwarded to Technology Center 2800 for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to the undersigned at (571) 272-3282.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Mark K. Johnson
P. O. Box 510644
New Berlin, WI 53151

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JUL 07 2004
OFFICE OF PETITIONS

In re Application of :
Vladimir S. Trubetskoy, et al. :
Application No. 10/095,680 : ON PETITION
Filed: March 11, 2002 :
Attorney Docket No. 9.5.03 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 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 slightly 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 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, all future correspondence regarding this application will be mailed solely to the address of record until otherwise instructed.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 1600.

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

cc: Mark K. Johnson
Mirus
505 South Rosa Road
Madison, WI 53719

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MIRUS CORPORATION
505 SOUTH ROSA RD
MADISON WI 53719

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OFFICE OF PETITIONS

In re Application of :
Wolff, et al. :
Application No. 10/095,681 :
Filed: March 11, 2002 :
Attorney Docket No. .009.05.02 :

ON PETITION

This is a decision on the petition under 37 C.F.R. 1.181, filed October 28, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to this office for review.

The petition is **dismissed**.

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 10, 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 11, 2002. A Notice of Abandonment was mailed on October 7, 2005.

Petitioner states, in part, "In response to the Notice to File Missing Parts, dated 04/10/2002, Applicants filed the missing declaration on June 28, 2002 along with a petition for extension of time and the appropriate fees."

A review of the application file indicates that a declaration, petition for extension of time and preliminary amendment were received by the Office on June 28, 2002. However, notations on the papers submitted on June 28, 2002 indicate the credit card number submitted for the required fees was declined and the necessary fees could not be charged.

As such, the required $65.00 surcharge, to date, has not been submitted and the declaration, submitted June 28, 2002, could not be accepted.

Petitioner may wish to consider filing a renewed petition under amended 37 C.F.R. § 1.137(b).

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

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

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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MIRUS CORPORATION
505 SOUTH ROSA ROAD
MADISON, WI 53719

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JUL 11 2006

OFFICE OF PETITIONS

In re Application of :
Wolff, et al. :
Application No. 10/095,681 :
Filed: March 11, 2002 :
Attorney Docket No. .009.05.02 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 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 Notice to File Missing Parts of Application (Notice) mailed April 10, 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 11, 2002. A Notice of Abandonment was mailed on October 7, 2005.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

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

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
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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Banner & Witcoff, Ltd.
1100 13th Street, N.W.
Suite 1200
Washington, DC 20005-4051

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JUN 0 9 2008

In re Application of	:	
Stephen J. Hemphill	:	
Application No. 10/095,708	:	DECISION ON PETITION
Filed: March 13, 2002	:	TO WITHDRAW
Attorney Docket No. 002087.00001	:	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 April 16, 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 Nina L. Medlock on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn.

The correspondence address has been changed to the sole inventor.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Mr. Stephen J. Hemphill
630 Greene Countrie Drive
Newton Square, PA 19073

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
10/095,708	03/13/2002	Stephen J. Hemphill	002087.00001

CONFIRMATION NO. 7374

POWER OF ATTORNEY NOTICE

22907
BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

OC000000030365445

Date Mailed: 06/09/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/16/2007.

- 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.

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

Robert E. Krebs
Thelen, Reid & Ptiest LLP
P.O. Box 640640
San Jose CA 95164-0640

MAIL

AUG 3 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Brian SANDER, et al.
Application Serial No.: 10/095,738
Filed: March 11, 2002
For: PLL NOISE SMOOTHING USING DUAL-MODULUS INTERLEAVING

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed July 19, 2004.

The petition is **GRANTED**.

This application became abandoned for failure to properly respond to the final Office action mailed on December 3, 2003. A Notice of Abandonment was mailed June 16, 2004.

Petitioner alleges to have timely filed a response in the form of a Request for Continued Examination (RCE). To support this position, Petitioner has included with the petition a copy of the RCE transmittal, an Amendment and USPTO receipt that is date stamped March 8, 2004.

The original papers filed were not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[a] postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the papers were timely filed in the Patent and Trademark Office but not matched with the application file. The fee submitted with the RCE has been credited to the application.

The date stamped on the post card receipt is after the expiration of the shortened statutory period for response. However, the copy of the RCE transmittal bears a proper certificate of mailing dated March 3, 2004.

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

The application will be forwarded to Technology Center's technical support staff for processing the RCE. From there, the file will be forwarded to the examiner for further consideration 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARK K. JOHNSON
P.O. BOX 510644
NEW BERLIN, WI 53131-0644

COPY MAILED

JUL 1 2 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jon A. Wolff et al :
Application No. 10/095,752 :
Filed: March 11, 2002 :
Attorney Docket No. .009.05.05 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 22, 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 December 23, 2003.

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

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to Technology Center AU 1636.

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

cc:

Mark K. Johnson
505 S. Rosa Rd.
Madison, WI 53719

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

BENASUTTI, P.A.
17294 BERMUDA VILLAGE DRIVE
BOCA RATON, FL 33487

COPY MAILED

FEB 2 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Timothy A. Wiest	:	
Application No. 10/095,575	:	ON PETITION
Filed: March 11, 2002	:	
Attorney Docket No. 6986-20041	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 26, 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 11, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 12, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

BENASUTTI, P.A.
17294 BERMUDA VILLAGE DRIVE
BOCA RATON, FL 33487

COPY MAILED
JUN 2 9 2004
OFFICE OF PETITIONS

In re Application of	:	
Timothy A. Wiest	:	
Application No. 10/095,757	:	ON PETITION
Filed: March 11, 2002	:	
Attorney Docket No. 6986-20041	:	

This is a correction to the decision mailed February 26, 2004, to revive the above-identified application.

The decision mailed February 26, 2004 indicated the wrong Application Number identifier 10/095,575. This error is regretted. In all other respects, the decision remains as written.

Telephone inquiries regarding this decision may be directed to Wan Laymon at (703) 306-5685.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GORDON K. ANDERSON
14632 PACIFIC STREET
TUSTIN, CA 92780

COPY MAILED

JUN 20 2008

OFFICE OF PETITIONS

In re Patent No. 6,673,413
Issue Date: January 6, 2004
Application No. 10/095,765
Filed: March 13, 2002
Attorney Docket No. 0056 D

ON PETITION

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

The petition is **GRANTED**.

This patent expired on January 6, 2008 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Files Repository.

Thurman Page
Petitions Examiner
Office of Petitions

O I P E IAP22
MAR 24 2008
PATENT & TRADEMARK OFFICE

RECEIVED
MAR 28 2008
OFFICE OF PETITIONS

IFW DAC (M)

PTO/SB/66 (10-05)
Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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

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

Docket Number (Optional)

Mail to: 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.

Patent No. 6,673,413 Application Number 10/095,765

Issue Date 01/06/2004 Filing Date 03/13/2002

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue 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).

Also complete the following information, if applicable

06/20/2008 CKHLOK 00000016 6673413
01 FC:2551 465.00 OP
02 FC:1558 1640.00 OP

The above - identified patent:

☐ is a reissue of original Patent No. _____, original issue date _____; original application number _____, original filing date _____.

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____ filed on _____.

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) 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, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

03/20/2008
Date

Signature

Gordon K. Anderson
Typed or printed name of person signing Certificate

Adjustment date: 06/20/2008 CKHLOK
03/25/2008 HVUONG1 00000027 6673413
01 FC:1599 -2105.00 OP

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. 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.

03/25/2008 HVUONG1 00000027 6673413
01 FC:1599 2105.00 OP

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.

1. SMALL ENTITY

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

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☐ $ _____	3 1/2 yr fee	(1551)	☑ $ 465.00	3 1/2 yr fee	(2551)
☐ $ _____	7 1/2 yr fee	(1552)	☐ $ _____	7 1/2 yr fee	(2552)
☐ $ _____	11 1/2 yr fee	(1553)	☐ $ _____	11 1/2 yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ 465.00

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1,640.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

SURCHARGE BEING SUBMITTED $ 1,640.00

5. MANNER OF PAYMENT

☑ Enclosed is a check for the sum of $ 2,105.00.

☐ Please charge Deposit Account No._____ the sum of $_____. A duplicate copy of this authorization is attached.

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No._____. A duplicate copy of this authorization is attached.

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

7. OVERPAYMENT

As to any overpayment made please

☐ Credit to Deposit Account No._____.

OR

☑ Send refund check.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

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

Gordon K. Anderson — 03/20/2008
Signature(s) of Petitioner(s) — Date

Gordon K. Anderson — 28,927
Typed or printed name(s) — Registration Number, if applicable

714 730-3460
Telephone Number

14632 Pacific Street
Address

Tustin, CA 92780
Address

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."

ENCLOSURES:

☑ Maintenance Fee payment

☑ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐ _____

Return To:

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United States Patent and Trademark Office

Patent Bibliographic Data					06/18/2008 05:17 PM
Patent Number:	6673413		**Application Number:**	10095765	
Issue Date:	01/06/2004		**Filing Date:**	03/13/2002	
Title:	COMPOSITE POLYMERIC TWIST TIE				
Status:	Petition filed 03/24/2008 no decision			**Entity:**	Small
Window Opens:	01/08/2007	**Surcharge Date:**	07/09/2007	**Expiration:**	01/06/2008
Fee Amt Due:	$0.00	**Surchg Amt Due:**	$0.00	**Total Amt Due:**	$0.00
Fee Code:					
Surcharge Fee Code:					
Most recent events (up to 7):	03/24/2008 01/06/2008 07/16/2007	Petition Related to Maintenance Fees Filed. Patent Expired for Failure to Pay Maintenance Fees. Maintenance Fee Reminder Mailed. --- End of Maintenance History ---			
Address for fee purposes:	GORDON K ANDERSON 14632 PACIFIC STREET TUSTIN, CA 92780				

NOTE: All USPTO fees are subject to change. If you are making a payment by mail or fax, please visit this link or contact the Maintenance Fee Branch (571-272-6500) to confirm the amount due on the date payment is to be made. A maintenance fee payment can be timely made using the certificate of mailing or transmission procedure set forth in 37 CFR 1.8.

Run Another Query

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **JANUARY 16, 2007**

TO SPE OF : ART UNIT **3634**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10095780** Patent No.: **6868944B2**

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: In the claims, Col 10, line 29 - has been changed to 30, and line 30 has been changed to 31

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER

SPE

3634
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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THE PROCTOR & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OHIO 45224

COPY MAILED

SEP 2 2 2005

OFFICE OF PETITIONS

In re Application of:	:	
FORTH, Peter, Jens, et al.	:	DECISION ON PETITION FOR
Application No.: 10/095,786	:	REVIVAL OF ABANDONED
Filing Date: March 12, 2002	:	APPLICATION UNDER
Attorney's Docket No.: CM2516	:	37 CFR 1.137(b)
For: DETERGENT PRODUCT	:	

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-entitled application, filed April 19, 2005.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed September 25, 2003. On December 19, 2003, applicants filed a Notice Of Appeal with respect to the Office action. However, applicants did not file a timely appeal brief, and no extensions of time were obtained under 37 CFR 1.136(a). Accordingly, the date of abandonment is February 20, 2004, two months after the filing of the Notice Of Appeal.

On April 19, 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 and submission as required by 37 CFR 1.114. Accordingly, the reply to the final Office action of September 25, 2003 (in the form of the RCE) is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 1751

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

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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BROWNING BUSHMAN, P.C.
5718 WESTHEIMER
SUITE 1800
HOUSTON, TX 77057-5771

COPY MAILED
FEB 24 2005
OFFICE OF PETITIONS

In re Application of
Ricardo J. Guerra
Application No. 10/095,787
Filed: March 12, 2002
Attorney Docket No. R. Guerra-1

~~In re Application of
Ricardo J. Guerra
Application No. 10/470,642
Filed: November 8, 2004
Attorney Docket No. R. Guerra 1-1~~

This is a decision on the Petition Under Rule 37 CFR 1.53 Assigning New Application and Filing Date, filed January 7, 2005 (Certificate of Mailing dated January 5, 2005), requesting that a nonprovisional application entitled "Collapsable Headgear" be assigned an application number and accorded a filing date of October 15, 2004.

The petition identifies the application, putativly filed on October 15, 2004, as a continuation of prior application No. 10/095,787, filed March 12, 2002. The original application papers, putativly filed on October 15, 2004, have been located in the file of prior application No. 10/095,787, and have been assigned application No. 10/470,642.

A review of the application papers reveal that the filing date accorded the application papers in the prior application is the date the application papers were received in this Office, November 8, 2004. It is noted that the application papers contain a certificate of express mailing dated October 15, 2004; however, the certificate of express mailing is the only evidence of express mailing that has been located among the application papers. Absent more, i.e. an Express Mail Mailing Label, the date of receipt of the application papers is the filing date

that will be accorded the application. See, 37 CFR §§ 1.6 and 1.10.

The application papers will be placed into application No. 10/470,642 and accorded a filing date of November 8, 2004. A copy of the present petition will be retained in application No. 10/095,787 to complete the record therein. All further correspondence concerning the application should be directed to application No. 10/470,642, not application No. 10/095,787.

The original papers filed on November 8, 2004, will be used for examination purposes.

Accordingly, the petition is granted.

No petition fee has been charged, and none is due.

It is also noted that the continuing application, serial no. 10/470,642, claims priority to the prior application 10/095,787. However, prior application 10/095,787 issued as a patent on October 19, 2004, as such, there is no copendency between application 10/470,642 and 10/095,787. A decision on the priority claim will be held in abeyance until such time as applicant files his petition under 37 CFR 1.10 to change the filing date of application serial number 10/470,642.

The Office of Initial Patent Examination is directed to accord application No. Application No. 10/470,642 a filing date of November 8, 2004, using the application papers submitted on November 8, 2004, and to mail a filing receipt.

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

Derek L. Woods
Attorney/Advisor
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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DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS TX 75380

COPY MAILED
NOV 1 2 2008
OFFICE OF PETITIONS

In re Application of :
Adler et al. :
Application No. 10/095,797 : DECISION ON PETITION
Filed: March 12, 2002 :
Attorney Docket No. YOR920010609US1 :

This is a decision on the petition, filed September 17, 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 reply to the Notification of Non-Compliant Appeal Brief (Notice) mailed December 3, 2007, which set a ONE (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on August 8, 2008.

Petitioner asserts that the Notice dated December 3, 2007, was not received.

A review of the file record at the Office indicates that the Notice was not mailed, supporting the petitioner's assertion that the Notice was not received. Accordingly, the application was not abandoned in fact. *See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

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

This application is being referred to the Technology Center Art Unit 2176 for further consideration of the Appeal Brief filed September 17, 2008.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at (571) 272-4914.

David Bucel
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 21, 2007

TO SPE OF : ART UNIT 2800(2142)

SUBJECT : Request for Certificate of Correction for Appl. No. 10/095811 patent no. ~~7054935~~ 7054935

MDM 10/9/07

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: Provisional application 60/092710 was not claimed in this application for priority purposes. 60/092710 was referenced in Preliminary Amendment filed 3/13/02 (page 2 of 8). Preliminary Amendment (page 1 of 8) contains correct priority document data.

Andrew Caldwell

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER
SPE

2142
Art Unit

Staple
Here
Only!

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,054,935
ISSUE DATE : May 30, 2006
INVENTOR(S) : FARBER, David et al.
APPLICATION NO. : 10/095,811

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

On the front page of the patent, first column, delete:

"(60) Provisional application No. 60/092,710, filed on Jul.14, 1998."

MAILING ADDRESS OF SENDER:
Brian Siritzky, Ph.D.
DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 Wilson Boulevard, 7th Floor
Arlington, Virginia 22203

PATENT NO. 7,054,935

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Form PTO 1050 (Rev. 2-93)

JUL 31 2007

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United States Patent and Trademark Office
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Paper No.

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
P.O. BOX 10395
CHICAGO IL 60610

COPY MAILED
DEC 0 5 2006
OFFICE OF PETITIONS

In re Application of :
Schwartz et al. : DECISION ON APPLICATION
Application No. 10/095,821 : FOR
Filed: March 12, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. 98-404CPA1CON2:

This is a decision on the "Request for Reconsideration of Patent Term Adjustment" filed May 17, 2006. Applicants request that the initial determination of patent term adjustment be corrected from three hundred fifty-seven (357) days to three hundred ninety-two (392) 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 ninety-two (392)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 7, 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 357 days. On May 17, 2006, applicants timely submitted the instant application for patent term adjustment[1].

Applicants contend the delay in prosecution should be calculated from August 18, 2004, the date the non-final Office action was re-mailed rather than the original date the July 14, 2004 Office action was mailed. A delay calculated from the August 18, 2004 re-mailing date would provide applicants with a delay of 35 days instead of the presently accorded 70 days.

[1] PALM records indicate that the Issue Fee payment was filed on May 17, 2006.

RELEVANT STATUTES AND REGULATIONS

37 CFR § 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant ...

OPINION

Applicants' argument is well-taken. The Office action mailed on July 14, 2004 was withdrawn because the examiner failed to consider the preliminary amendment filed on March 12, 2002. The August 18, 2004 Office Action restarted the time period for reply.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 392 days.

Conclusion

In view thereof, the petition is GRANTED.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 18-1945, as authorized. This fee is required and will not be waived.

The application is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Monday
Date: 12/4/2006

PALM INTRANET

Time: 16:05:42

PTA Calculations for Application: 10/095821			
Application Filing Date:	03/12/2002	PTO Delay (PTO):	429
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	72
Post-Issue Petitions:	0	Total PTA (days):	392
PTO Delay Adjustment:	35		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
56	12/04/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		35	
55	12/04/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	70		
48	03/07/2006	MAIL NOTICE OF ALLOWANCE			
47	03/03/2006	ISSUE REVISION COMPLETED			
46	03/03/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	03/03/2006	NOTICE OF ALLOWABILITY			
44	01/04/2006	DATE FORWARDED TO EXAMINER			
43	12/23/2005	RESPONSE AFTER NON-FINAL ACTION			
42	09/23/2005	MAIL NON-FINAL REJECTION			
41	09/19/2005	NON-FINAL REJECTION			
40	07/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	08/01/2005	DATE FORWARDED TO EXAMINER			
38	07/21/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
37	08/01/2005	DATE FORWARDED TO EXAMINER			
36	07/21/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		2	30
35	08/01/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
34	07/21/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
33	05/19/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
32	05/16/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
31	04/19/2005	MAIL NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			

30	04/19/2005	MAIL FINAL REJECTION (PTOL - 326)			
29	04/17/2005	FINAL REJECTION			
28	02/15/2005	PARALEGAL TD ACCEPTED			
27	02/15/2005	NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
26	12/23/2004	TERMINAL DISCLAIMER FILED		0	23
25	03/12/2002	REFERENCE CAPTURE ON IDS			
24	02/15/2005	DATE FORWARDED TO EXAMINER			
23	12/23/2004	RESPONSE AFTER NON-FINAL ACTION		70	12
22	12/23/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	12/23/2004	WORKFLOW INCOMING AMENDMENT IFW			
20	12/15/2004	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
19	12/08/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
18	10/30/2004	CORRESPONDENCE ADDRESS CHANGE			
17	11/01/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
16	10/13/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	08/18/2004	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
14	07/19/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
13	08/17/2004	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
12	07/14/2004	MAIL NON-FINAL REJECTION	429		-1
11	07/12/2004	NON-FINAL REJECTION			
10	06/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	03/12/2003	CORRESPONDENCE ADDRESS CHANGE			
8	10/16/2002	POWER TO MAKE COPIES AND/OR INSPECT			
7	03/12/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	03/12/2002	PRELIMINARY AMENDMENT			
5	04/26/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	04/11/2002	APPLICATION DISPATCHED FROM OIPE			
3	04/09/2002	APPLICATION IS NOW COMPLETE			
2	03/27/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/12/2002	INITIAL EXAM TEAM NN			

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AMSTER, ROTHSTEIN & EBENSTEIN
90 PARK AVENUE
NEW YORK, NY 10016

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AUG 1 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Carpay, Wilhelmus Marinus	:	
Application No. 10/095,834	:	ON PETITION
Filed: March 11, 2002	:	
Attorney Docket No. 65959/20	:	

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

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

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

Inquiries related to this communication should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to (571) 272-3282.

This matter is being referred to Technology Center 2800 to await a response to the Office action mailed on May 24, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Date : February 3, 2007

Patent No. : 6,886,409 B2
Inventor(s) : Carpay
Issued : May 3, 2005
Title : **SYSTEM FOR CONTROLLING THE FLOW OF A FLUID THROUGH A SUBSTRATE**
Docket No. : 65959/20

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

CBN/eme

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AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

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MAY 10 2007

OFFICE OF PETITIONS

In re Patent No. 6,886,409	:	
Application No. 10/095,834	:	
Filed: March 11, 2002	:	ON PETITION
Issued: May 3, 2005	:	
Attorney Docket No. 65959/20	:	

This is a decision on the request filed March 8, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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 Petitions Examiner Liana Walsh 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.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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Washington, D.C. 20231
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Paper No. 3

DENNIS A. DEBOO
DEBOO & CO.
SUITE 900
400 CAPITOL MALL
SACRAMENTO CA 95814

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JUN 06 2002

OFFICE OF PETITIONS

In re Application of	:	
Herzog & Bickford	:	
Application No. 10/095,835	:	DECISION ACCORDING STATUS
Filed: 8 March, 2002	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 22523-pa	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 8 March, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, James P. Herzog, 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, that a copy of the above-identified application was sent via Federal Express to the non-signing inventor's last known address. By the declaration of joint inventor Randall Bickford, petitioners have shown that the non-signing inventor orally refused, during a telephone call, to sign the declaration naming him as a joint inventor along with Randall L. Bickford.

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 1 2 2005

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United States Patent and Trademark Office
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QUIRK & TRATOS
3773 Howard Hughes Parkway
Suite 500 North
Las Vegas NV 89109

In re Application of	: DECISION ON PETITION
Russell Wige	: TO WITHDRAW THE
Serial No: 10/095,836	: HOLDING OF ABANDONMENT
Filed: March 11, 2002	:
For: DUAL-INPUT DIFFERENTIAL PLANETARY	:
GEAR TRANSMISSION	:

This is a decision on the petition under 37 CFR 1.181 filed July 7, 2004, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The petition states the present application became abandoned for failure to respond to the November 24, 2003 Office action. Applicant submits copies of the Patent Office Auto-Reply Facsimile Transmission, the Response, the Petition for Extension of Time Under 37 CFR 1.136(a), Facsimile Transmission Confirmation, and Applicant's Facsimile Confirmation as evidence of timely filing the response.

A review of the record shows that applicant's response was received in the Office November 24, 2003 and was considered by the examiner. The Notice of Abandonment mailed June 15, 2004 refers to the response received on May 24, 2004 in item 1(c) but it did not constitute a proper rely, or a bona fide attempt at a proper reply. The November 24, 2003 response attempted to change the previously elected invention.

The Office action mailed April 9, 2003 set forth an Election of Species requirement in which applicant's representative, Rob L. Phillips, made a telephonic provisional election without traverse to prosecute Species A, shown in Figures 1, 3 and 5. The examiner acted on claims 1-3 drawn to the elected Species A and withdrew non-elected claims 4-17 from consideration. Applicant filed a response October 14, 2003 canceling the previous claims and submitting new claims 18-25. The examiner mailed an Office action November 24, 2003 holding the October 14, 2003 response non-responsive for canceling all original claims and presenting new claims drawn to a non-elected species (MPEP 821.03). The November 24, 2003 Office action set a time period of one month from the mailing of the Office action to reply. Applicant filed a response December 19, 2003 requesting the examiner waive the previous election and accept a shift to a different species in claims 14-17. The examiner mailed an Office action January 7, 2004

denying the waiver to switch the previous election. The period for response remained the period set in the November 24, 2003 Office action. Applicant filed a two-month extension of time and a response February 12, 2004 electing Species D, claims 14-17. The examiner mailed a response May 5, 2004 denying applicant's shift from the elected species to Species D and again held the response non-responsive. The examiner told applicant the period for response set in the November 24, 2003 Office action was still running and that the case would become abandoned unless applicant corrected the deficiency. Applicant filed a five-month extension of time and a response May 24, 2004 in which he elected Species D, claims 10-13. The examiner mailed a Notice of Abandonment June 15, 2004 in which he held applicant's May 24, 2004 response non-responsive because it again attempted to shift the election from the original elected species, such shift having been denied previously. Since the period of time set forth in the November 24, 2003 Office action could only be extended until May 24, 2004, the application was held abandoned.

Applicant's reason for petitioning the withdrawal of the holding of abandonment is not correct. The application was not held abandoned for failure to respond to the Office action dated November 24, 2003. The Notice of Abandonment mailed June 15, 2004 in fact referred to the May 24, 2004 response but held the May 24, 2004 response to not constitute a proper reply, or a bona fide attempt at a proper reply. Applicant's response filed October 14, 2003 canceled all the previously presented claims and presented claims drawn to species other than the species which was previously elected. The examiner properly held the October 14, 2003 response to be non-responsive in accordance with MPEP 821.03. The Office action mailed November 24, 2003 properly set a one- month period for response to correct the deficiency since the October 14, 2003 response was held to be a bona fide attempt to reply. Applicant's December 19, 2003 response requested a waiver and a shift of election under MPEP 819.01. The examiner denied the waiver in the January 7, 2004 Office action. The January 7, 2004 response and each of the responses of February 12, 2003 and May 24, 2003 again attempted to change the previous election of species which had been denied in both the November 24, 2003 Office action and the January 7, 2004 Office action, and therefore were not bona fide attempts at a proper reply. The present application was correctly held abandoned in the Notice of Abandonment mailed June 15, 2004 since the period for response set in the November 24, 2003 Office action and the allowed extensions of time had run out without a proper response having been filed.

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 to Withdraw the Holding of Abandonment."

Telephone inquiries relative to this decision should be directed to Supervisory Patent Examiner Charles Marmor at (703) 308-0830.

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in the failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(m); and 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 non-small entity petition fee required by law for filing a petition under the unavoidable standard is $500. The non-small entity fee for a petition under the unintentional standard is $1,500.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

By Mail: Mail Stop Petition
Commissioner of Patents
Alexandria, VA 22313-1450

By Fax: (571) 273-0025
Attn: Office of Petitions

By Hand: US Patent and Trademark Office

220 20th Street South
Crystal Plaza 2, Lobby 1B03
Arlington, VA 22202

Telephone inquiries should be directed to the Office of Petitions Staff at (571) 272-3282.

SUMMARY: The petition is **DISMISSED**.

Robert Oberleitner, Director
Patent Technology Center 3600
(703) 308-1134

pp:cm:3/7/05

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United States Patent and Trademark Office
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QUIRK & TRATOS
3773 HOWARD HUGHES PARKWAY
SUITE 500 NORTH
LAS VEGAS, NV 89109

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Wige, Russell	:	
Application No. 10/095,836	:	ON PETITION
Filed: March 11, 2002	:	
Attorney Docket No. 7848.00006	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 23, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/135,879.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 1 5 2008

OFFICE OF PETITIONS

Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

In re Patent No. 7,206,305	:	
Issue Date: April 17, 2007	:	
Application No. 10/095,866	:	NOTICE
Filed: March 11, 2002	:	
Attorney Docket No. 44375/4:11	:	

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

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OFFICE OF PETITIONS

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Patent No. 6,759,711	:	
Issue Date: July 6, 2004	:	
Application No. 10/095,872	:	ON PETITION
Filed: March 12, 2002	:	
Patentee(s): Martin J. Powell	:	

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

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

If petitioner desires to receive future correspondence, which **may** be mailed, regarding maintenance fees for the above-identified patent, a "Fee Address Indication" form and/or a "Request for Customer Number" form(s) should be submitted (See PTO/SB/47 and/or PTO/SB/125).

This patented file is being forwarded to Files Repository.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of

Joe, al.

Application No. 10/095,972

Filed: March 11, 2002

Attorney Docket No. 020568-002010US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper and timely response to the final Office action mailed September 18, 2006, which set a shortened statutory period for reply of three-months from its mailing date. The application became abandoned on December 19, 2006.

The Request for Continued Examination and amendment filed April 17, 2007, is noted.

The application file is being forwarded to Technology Center 2600, GAU 2611 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AMSTER, ROTHSTEIN & EBENSTEIN
90 PARK AVENUE
NEW YORK, NY 10016

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AUG 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Hendrik Sibolt van Damme, et al. :
Application No. 10/095,992 : ON PETITION
Filed: March 11, 2002 :
Attorney Docket No. 65959/21 :

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

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

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

Telephone inquiries concerning this matter may be directed to Retta Williams at (703) 306-5594.

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

#4
7-21-03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
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JUL 21 2003

TECHNOLOGY CENTER 2100

Paper No. 4

Leah Sherry
OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

In re Application of:	)	
Tapper	)	
Application No. 10/095,996	)	**DECISION ON REQUEST FOR**
Filed: March 8, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: USING PROCESS QUADS TO ENABLE CONTINUOUS SERVICES IN A CLUSTER ENVIRONMENT	)	

This is a decision on the Request To Withdraw from Representation filed May 16, 2003.

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

The request filed May 16, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

JM James R. Matthews

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

cc: Bill Streeter
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

UNITED STATES 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

BLODGETT BLODGETT
43 HIGHLAND STREET
WORCESTER, MA 01609-2797

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SEP 25 2003

OFFICE OF PETITIONS

In re Application of :
Ralph S. Daniels :
Application No. 10/096,004 :
Filed: March 12, 2002 :
Attorney Docket No. 005-743-402 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 8, 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 May 1, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 2, 2002.

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

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

103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 1754.

Wan Laymon

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

cc: WELSH & KATZ
120 SOUTH RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606-3913

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/22/10

TO SPE OF : ART UNIT 2435

SUBJECT : Request for Certificate of Correction for Appl. No.: 10096038 Patent No.: 7607165

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Kimyen Vu/ SPE Art Unit 2435

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SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE, FL 32614

Mail Date: 04/20/2010

Applicant	: Jonathon D. Mellott	: DECISION ON REQUEST FOR
Patent Number	: 7607165	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/096,038	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **944** 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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NORRIS MCLAUGHLIN & MARCUS P.A.
875 THIRD AVENUE, 18TH FLOOR
NEW YORK, NY 10022

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OFFICE OF PETITIONS

In re Patent No. 6,749,300	:	
Issue Date: June 15, 2004	:	
Application No. 10/096,054	:	ON PETITION
Filed: March 12, 2002	:	
Attorney Docket No. 101215-82	:	

This is a decision on the petition under 37 CFR 1.182, filed May 17, 2005, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letter Patent.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of the duplicate Letters Patent should be directed to either Krystal Paige at (703) 308-9250 ext. 139.

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

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

cc: Krystal Paige, South Tower 8th Floor, C-32 Fax (703) 746-4642

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

DATE November 21, 2004

Paul H. McDowall
Medtronic, Inc
710 Medtronic Pkwy.,
Minneapolis, MN 55432

PATENT NO: 7,096,067
APPLICANT: Lindberg
SERIAL N\O: 10/096,067
FILING DATE: March 5, 2002

REQUEST FOR CERTIFICATE OF CORRECTION

The request for the issuance of a certificate of correction in the above identified patent has been considered.

Inspection of the file of the application for the patent reveals, however, that in connection with the alleged error to which you refer, the patent is printed in accordance with the record in the Patent and Trademark Office of the application as passed to issue by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

Further correspondence concerning the matter should be filed and directed to Decisions & Certificate of Correction Branch. Any response(s) must be filed within a two-month period.

Cecelia B. Newman 703-308-9380 ext. 123
Cecelia B. Newman
Decisions & Certificates of Corrections
Form PTOL-209 (REV. 5/93)

CBN/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/27/06

TO SPE OF : ART UNIT 1746

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/096068** Patent No.: **7004180**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

MICHAEL BARR
SUPERVISORY PATENT EXAMINER

SPE — **Art Unit** 1746

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

ENZO LIFE SCIENCES, INC.
c/o ENZO BIOCHEM, INC.
527 Madison Avenue
9th Floor
New York, NY 10022

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OFFICE OF PETITIONS

In re Application of
Stavrianopoulos et al.
Application No. 10/096,075
Filed: March 12, 2002
Attorney Docket No. Enz-61

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 3, 2003, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed April 26, 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 27, 2002.

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

In addition to the petition fee, petitioner's deposit account was charged the following fees: filing fee ($375.00), late oath surcharge ($65.00), recordation of patent assignment ($40.00) and additional claim fees ($3,587.00). The additional fees come to a total of $4,067.00.

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

Telephone inquiries should be directed to Program Assistant Liana Chase at (703) 306-0482.

BethAnne Dayoan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Enzo Biochem, Inc.
527 Madison Avenue (9th Floor)
New York, NY 10022

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JAN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Jannis G. Stavrianopoulos, et al.	:	
Application No. 10/096,075	:	ON PETITION
Filed: March 12, 2002	:	
Attorney Docket No. Enz-61	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 4, 2004, 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 Technology Center 1600.

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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Paper No.

ENZO BIOCHEM, INC.
527 MADISON AVENUE
(9th FLOOR)
NEW YORK NY 10022

MAILED

JUN 04 2009

OFFICE OF PETITIONS

In re Patent No. 7,166,478 :
Issue Date: January 23, 2007 :
Stavrianopoulos et al. : ON PETITION
Application No. 10/096,075 :
Filed: March 12, 2002 :
Atty Docket No. ENZ-61 :

This is in response to the papers filed August 8, 2008 and December 31, 2008, in the above-identified matter, namely, 1) the RESPONSE TO ORDER TO SHOW CAUSE WHY DECISIONS REVIVING APPLICATIONS SHOULD NOT BE VACATED filed August 8, 2008, 2) the SUPPLEMENTAL REQUEST TO VACATE ORDER TO SHOW CAUSE WHY DECISION REVIVING THIS APPLICATION SHOULD NOT BE VACATED filed December 31, 2008, 3) the PETITION UNDER 37 C.F.R. 1.182 FOR EXPEDITED CONSIDERATION OF REQUESTS TO VACATE ORDER TO SHOW CAUSE AND TO EXPUNGE CONFIDENTIAL INFORMATION FROM PUBLIC RECORDS filed December 31, 2008; and 4) the REQUEST TO EXPUNGE CONFIDENTIAL APPLICATIONS FROM ORDERS TO SHOW CAUSE UNDER 37 CFR 1.181, also filed December 31, 2008.

On July 1, 2008, the Office issued an Order to Show Cause why the decision mailed May 11, 1999 and July 31, 2002 in the above-identified application No. 09/104,067 (Now Patent No. 6,743,605) reviving the application should not be vacated. The Order set a two-month period for response with extensions of time obtainable under 37 CFR 1.136(a).

In response, patentee filed the above-noted papers. Pursuant to patentee's authorization, the extension of time fee[1] necessary to consider patentee's responses is being charged to Deposit Account No. 50-0206. This decision considers each of the papers, in turn, as follows: First, consideration will turn to patentee's request to expedite consideration filed December 31, 2008. Then, the decision will jointly address patentee's response to order to show cause filed August 8, 2008 and patentee's supplemental request to vacate order filed December 31, 2008. Finally, the decision will respond to patentee's request to expunge confidential information filed December 31, 2008.

ON PETITION UNDER 37 C.F.R. 1.182
FOR EXPEDITED CONSIDERATION OF
REQUESTS TO VACATE ORDER TO SHOW CAUSE
AND TO EXPUNGE CONFIDENTIAL INFORMATION FROM PUBLIC RECORDS

On December 31, 2008, patentee filed the petition under 37 CFR 1.182 for expedited consideration of their requests filed August 8, 2008 and December 31, 2008.

The Petition to Expedite consideration of Petition to Expunge Confidential Information concerning this Application from Public Records is **GRANTED**.

The Petition to Expedite consideration of Request to Vacate Order to Show Cause is **DENIED**.

Patentee requests expedited consideration of their Request to Expunge in order to restore confidentiality and to maintain in confidence all information concerning the above-referenced application. Patentee alleges that the Office's inclusion of confidential information concerning this application in the Order to Show Cause by placement of the Order in at least one patented file is a direct violation of the statute, 35 U.S.C. 122(a), and the regulation, 37 C.F.R. § 1.14(a). Patentee requests that the Office expedite consideration of their Request to Vacate the Order to Show Cause on the basis that if it is

[1] The two-month period for response to the Order mailed July 1, 2008 ended on September 1, 2008. To make the responses filed December 31, 2008 timely, an extension of time for response within the fourth month ($1,730) to extend the period to January 1, 2009 has been charged.

ultimately granted such a decision would alleviate any further expenditure of applicants' time and resources in preparing responses to any vacated Orders to Show Cause. Furthermore, while acknowledging that the Petitions to Expedite are properly considered pursuant to 37 CFR 1.182, patentee maintains that the required fee for such consideration should not be required as the inclusion in the Order to Show Cause of confidential information concerning this application was a mistake on the part of the Office, as was the entire act of issuing the Order to Show Cause.

Preliminarily, the issue of payment of the required petition fee must be addressed. Payment of a fee of $400 is required for consideration on the merits of a petition pursuant to 37 CFR 1.182. As acknowledged by applicants, a Petition to Expedite is a petition pursuant to 37 CFR 1.182. Nonetheless, there is merit to an argument that no fee should be required to expedite consideration of a petition requiring, if granted, prompt removal of confidential information issued in error by the Office. By rule, the Office does not require payment of a fee to advance consideration of the examination of applications where the Office has determined that such expedited consideration is warranted. See 37 CFR 1.102(c). In addition, the Office by practice does not require a fee for immediate action on a petition to withdraw an application from issuance given that a delay in acting on such a petition would render the relief meaningless (e.g. the application would have issued as a patent before the petition to withdraw from issue could be granted). The justifications for not paying a fee for expedited consideration of a petition to expunge confidential information based upon an action of the USPTO are equally persuasive. First, there is a compelling public interest in the Patent and Trademark Office keeping in confidence confidential application information and thus, in addressing any allegation that they have not. Second, it is warranted that an applicant file a petition to expedite with respect to alleged disclosure of confidential information to draw attention to a petition alleging such violation and to effectuate any remedial action. Absent the filing of such a petition, the Office may not become aware of the issue presented until the petition on the merits is considered in turn and the confidential information has been open to the public. On its face, the Petition to Expedite consideration of the Petition to Expunge Confidential Information warrants consideration without a fee.

However, patentee also requests expedited consideration of the Request to Vacate the Order to Show Cause. The Office is not of the opinion that the Orders to Show Cause were issued by mistake. Patentee submits no persuasive argument, nor does the Office find any compelling reason, to waive the fee required for consideration of the petition to expedite consideration of the Request to Vacate the Order to Show Cause. Accordingly, the $400 fee is required and will not be waived. The petition fee has been charged to the Deposit Account, as authorized.

Consideration now turns to the merits of the petitions to expedite. A petition to expedite a decision on a petition is treated as a request that upon making a showing justifying such action the Office take up for consideration a petition out of turn.

Patentee's basis for requesting expedited consideration of the Request to Expunge Confidential Information is to ensure fulfillment of the statutory requirement that the Office preserve in confidence patent applications. Failure to act on such a Request leaves a question as to whether confidential information has been made available to the public. Such justifications warrant that the Office consider the Request to Expunge Confidential Information out of turn.

However, the mere fact that patentee has to expend resources to respond to the Orders to Show Cause does not justify considering the Request to Vacate out of turn. The argument that the Order was issued in error is an argument on the merits of the Order to Show Cause, and is properly presented in a response on the merits to the Order. Even if a decision on the Order to Show Cause were ultimately issued in favor of patentee, this does not warrant consideration of their Request out of turn. Their articulated interest in alleviating expenditure of time and resources in preparing a response is no more compelling than the interest of any other patentee/applicant awaiting action by the Office.

In view thereof, this decision also addresses the Petition to Expunge Confidential Information.

Nonetheless, as the application is before the reviewing attorney for consideration of the Petition to Expunge, the Request to Vacate the Order to Show Cause will also be addressed.

ON RESPONSE TO ORDER TO SHOW CAUSE WHY DECISIONS REVIVING APPLICATIONS SHOULD NOT BE VACATED

and

SUPPLEMENTAL REQUEST TO VACATE ORDER TO SHOW CAUSE WHY DECISION REVIVING THIS APPLICATION SHOULD NOT BE VACATED

On August 8, 2008, patentee filed the RESPONSE TO ORDER TO SHOW CAUSE WHY DECISIONS REVIVING APPLICATIONS SHOULD NOT BE VACATED. Therein, patentee requests that the Order to Show Cause in this patent be rescinded and expunged from the record. Patentee contends that the Office is 1) without jurisdiction to issue the Order in a patented case; and that 2) Office Personnel Not to Express Opinion on Validity or Enforceability of Patent. Patentee further requests the immediate rescission and expungement of the Order to Show Cause, including expungement of any reference to this U.S. patent from any Order to Show Cause mailed to Patentee or otherwise made publicly available.

Although filed as a response, this paper did not address the merits of the Order. In other words, patentee did not provide a direct response to the question of why the decision reviving this application should not be vacated.

On December 31, 2008, patentee supplemented this response with the SUPPLEMENTAL REQUEST TO VACATE ORDER TO SHOW CAUSE WHY DECISION REVIVING THIS APPLICATION SHOULD NOT BE VACATED. Therein, patentee asserts *inter alia* that the USPTO lacks jurisdiction to issue the instant Order and is precluded from expressing any opinion as to its validity, patentability and enforceability.

The Office is of the opinion that it has jurisdiction to issue this Order and that the Order does not violate the requirement that Office Personnel not express an opinion on the validity or enforceability of a patent.

Enzo Therapeutics Inc. is the assignee of this patent (and the other patent/applications at issue). Pursuant to the Office's

clear authority over pending applications, the Office maintains it has the right to request a full response to the questions raised in the Order to Show Cause with respect to this patent. The information previously requested pertains not only to the instant patent, but to several pending applications as the information was directed to a pattern of abandoning and reviving applications, and the propriety of the decisions granting petitions to revive given that pattern.

Nonetheless, at the present time, the Office will expunge the Order from the patented cases to the extent permitted by the image file wrapper system.

The Office reserves the right to request additional information with respect to this patented case.

ON REQUEST TO EXPUNGE CONFIDENTIAL APPLICATIONS FROM ORDERS TO SHOW CAUSE UNDER 37 CFR 1.181

On December 31, 2008, patentee filed a REQUEST TO EXPUNGE CONFIDENTIAL APPLICATIONS FROM ORDERS TO SHOW CAUSE UNDER 37 CFR 1.181.

The Request is **DISMISSED AS MOOT**.

As discussed above, in response to patentee's RESPONSE TO ORDER TO SHOW CAUSE WHY DECISIONS REVIVING APPLICATIONS SHOULD NOT BE VACATED and SUPPLEMENTAL REQUEST TO VACATE ORDER TO SHOW CAUSE WHY DECISION REVIVING THIS APPLICATION SHOULD NOT BE VACATED filed August 8, 2008 and December 31, 2008, the Office is expunging the Order from the patented cases.

As the entire Order is being expunged from this patented file, the request to expunge confidential information is now moot.

Charles Pearson
Director
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.

ENZO BIOCHEM, INC.
527 MADISON AVENUE
(9th FLOOR)
NEW YORK NY 10022

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FEB 16 2010

In re Patent No. 7,166,478 :
Issue Date: January 23, 2007 :
Stavrianopoulos et al. : ON PETITION
Application No. 10/096,075 :
Filed: March 12, 2002 :
Atty Docket No. ENZ-61 :

This is in response to the VOLUNTARY REPLY TO EXPUNGED ORDER TO SHOW CAUSE[1] filed, November 3, 2009.

The record of this application and petitioners' response to the order to show cause have been reviewed and considered. The record of this application does not indicate that the abandonment of the application occurred despite the exercise of reasonable due care or diligence on the part of the applicant. See *In re Mattullath*, 38 App. D.C. 497, 514-15 (1912), and *Ex parte Pratt*, 1887 Dec.Comm'r Pat. 31, 32-33 (1887). The petition to revive this application, however, is not under the "unavoidable" standard of 35 U.S.C. § 133 and 37 CFR 1.137(a), but is under the "unintentional" standard of 35 U.S.C. §

[1] The order requested petitioner to show cause why the decisions mailed June 11, 2003, and January 28, 2005 in application No. 10/096,075 (now Patent No. 7,166,478) reviving the application should not be vacated. By decision mailed June 4, 2009, petitioner's prior request to expunge the Order mailed July 1, 2008 from this patented case was granted. Nonetheless, petitioner submitted this response.

41(a)(7) and 37 CFR 1.137(b). Therefore, the Office of the Commissioner for Patents is terminating the inquiry initiated by the order to show cause without vacating or otherwise disturbing the decision reviving the above-identified application.

The petition is granted to the extent that the Office of the Commissioner for Patents will not vacate or otherwise disturb the decisions reviving the above-identified application.

Telephone inquiries regarding this decision may be directed to Senior Petitions Attorney Nancy Johnson at 571-272-3219.

for

Charles Pearson
Director
Office of Petitions

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Paper No.

ENZO BIOCHEM, INC.
527 MADISON AVENUE
(9th FLOOR)
NEW YORK NY 10022

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MAR 15 2010

In re Patent No. 7,166,478 :
Issue Date: January 23, 2007 :
Stavrianopoulos et al. :
Application No. 10/096,075 :
Filed: March 12, 2002 :
Atty Docket No. ENZ-61 :

This is a supplemental response to the VOLUNTARY REPLY TO EXPUNGED ORDER TO SHOW CAUSE[1] filed, November 3, 2009.

The decision of February 16, 2010 was mailed in error and is hereby vacated.

The decision of June 4, 2009 expunged the order to show cause, thus terminating the inquiry initiated by the order to show cause without vacating or otherwise disturbing the decision reviving the application resulting in the above-identified patent. Therefore, this response has been placed in the file of the above-identified patent; however, no further action on such response is deemed necessary or appropriate.

---

[1] The order requested petitioner to show cause why the decisions mailed June 11, 2003, and January 28, 2005 in application No. 10/096,075 (now Patent No. 7,166,478) reviving the application should not be vacated. By decision mailed June 4, 2009, petitioner's prior request to expunge the Order mailed July 1, 2008 from this patented case was granted. Nonetheless, petitioner submitted this response.

Telephone inquiries regarding this decision may be directed to Senior Petitions Attorney Nancy Johnson at 571-272-3219.

Charles Pearson
Director
Office of Petitions

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Paper No. 9

c/o ENZO BIOCHEM, INC.
9th Floor
527 Madison Avenue
New York NY 10022

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MAY 0 9 2003

OFFICE OF PETITIONS

In re Application of
Rabbani et al.
Application No. 10/096,076
Filed: March 12, 2002
Attorney Docket No. Enz-62

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2003, to revive the above-identified application.

This application became abandoned for failure to reply timely to the Notice to File Missing Parts of Nonprovisional Application mailed May 22, 2002, which set a two-month shortened statutory period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on July 23, 2002. A Notice of Abandonment was mailed on April 2, 2003.

The petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The following fees will be charged to Deposit Account No. 05-1135, as authorized by petitioner: $650.00 petition fee, $375.00 basic filing fee, $7151.00 claim fees, and a $65.00 surcharge.

The file is being forwarded to Technology Center 1600 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

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DEC 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Elazar RABBANI et al. :
Application No. 10/096,076 :
Filed: March 12, 2002 :
Attorney Docket No. Enz-62 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 06, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) 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 October 07, 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 $ 405, and the submission required by 37 CFR 1.114; (2) the petition fee of $ 770; and (3) a proper statement of unintentional delay.

The fee of $405 for the Request for Continued Examination was debited twice to petitioner's deposit account. Since the $405 fee need only be paid once, the second $405 fee charged with respect to thereto is unnecessary and will be credited to petitioner's deposit account.

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 documents 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 Karin Reichle at (571) 272-6051.

This application is being referred to Technology Center AU 1637 for processing and for appropriate action by the Examiner in the normal course of business.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Cheryl H. Agris
P.O. Box 806
Pelham, N. Y. 10803

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEVEN J WEISSBURG
238 MAIN STREET
SUITE 303
CAMBRIDGE, MA 02142

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AUG 2 5 2003

OFFICE OF PETITIONS

In re Application of	:
Christopher S. Musso	:
Application No. 10/096,091	: DECISION GRANTING PETITION
Filed: March 12, 2002	: UNDER 37 CFR 1.137(b)
Attorney Docket No. MIT9363/9364	:

This is a decision on the petition, filed by facsimile transmission on May 21, 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 March 5, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or

under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been previously rescinded.

Pursuant to petitioner's authorization, Deposit Account No. 23-0833 was charged $650.00 for the petition to revive an unintentionally abandoned application (37 CFR 1.137(f)).

Any inquiries concerning this decision may be directed to Wan Laymon at (703) 306-5685.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JJGJR.: 06-06

Paper No: __

JEFFREY M. GREENMAN
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WEST HAVEN CT 06516

COPY MAILED

JUN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Lerchen, et al.	:	
Application No. 10/096,120	:	ON PETITION
Filed: 8 March, 2002	:	
Attorney Docket No. LE A 35 254	:	

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 **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 7 February, 2006, with reply under a non-extendable deadline on or before Monday, 8 May, 2006;
- the instant application went abandoned by operation of law after midnight 7 May, 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed
- Petitioner filed the instant petition on 9 May, 2006, with fee, and, *inter alia*, sought to make the reply in the form of the fees due, however, the deposit account designated appears to have had insufficient funds to satisfy the petition and fees due requirements and made the statement of unintentional delay–thus, Petitioner appears not to have satisfied the "fee" and "reply" 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]

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

It appears that Petitioner has not satisfied the "fee" and "reply" requirements of the regulation.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[7]

By mail: Commissioner for Patents[8]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

---

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The number (571) 273-8300 is be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[8] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 10-07

Paper No: __

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OCT 09 2007

OFFICE OF PETITIONS

JEFFREY M. GREENMAN
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WEST HAVEN CT 06516

In re Application of	:	
Lerchen, et al.	:	
Application No. 10/096,120	:	ON PETITION
Filed: 8 March, 2002	:	
Attorney Docket No. LE A 35 254	:	

This is a decision on a petition filed on 19 December, 2006, under 37 C.F.R. §1.137(b).

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 under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and

[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.

Fees Due mailed on 7 February, 2006, with reply under a non-extendable deadline on or before Monday, 8 May, 2006;

- the instant application went abandoned by operation of law after midnight 8 May, 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the original petition was filed
- Petitioner filed the original petition on 9 May, 2006, with fee, and, *inter alia*, sought to make the reply in the form of the fees due, however, the deposit account designated appears to have had insufficient funds to satisfy the petition and fees due requirements and made the statement of unintentional delay–thus, Petitioner did not satisfy the "fee" and "reply" regulatory requirements under 37 C.F.R. §1.137(b);
- the Office mailed a Notice of Abandonment on 27 October, 2006;
- the instant petition (with fee) seeks to overcome those deficiencies and was filed on 19 December, 2006, with fees as the reply and Petitioner made the statement of unintentional delay.

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]

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

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(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.

[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).

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
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The 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.

---

[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.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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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JAN 05 2007

OFFICE OF PETITIONS

APPLIED BIOSYSTEMS
500 OLD CONNECTICUT PATH
FRAMINGHAM, MA 01701

In re Application of	:
Coull, et al.	: DECISION ON APPLICATION
Application No. 10/096,125	: FOR PATENT TERM ADJUSTMENT
Filed: March 9, 2002	:
Atty. Dkt. No.: BP0102-US	:

This is a decision on the "Request For Reconsideration Of Patent Term Adjustment Pursuant to 37 C.F.R. § 1.705(b)," filed November 20, 2006.

The application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed September 6, 2006, indicated a patent term adjustment (PTA) to date of 676 days. The issue fee payment was timely received November 20, 2006.

The correct PTA at the time of the allowance is 676 days, as indicated on the Determination of Patent Term Adjustment mailed September 6, 2006.

Applicants argue that the application is entitled to an adjustment of 692. Applicants do not dispute the adjustment of 713 days for Office delays, but argue that the reduction of 37 days is in error, arguing that the correct reduction for applicants' failure to engage in reasonable efforts to conclude prosecution is 21 days.

A review of the application history reveals that as of the time of allowance, an adjustment of 713 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(2).

The adjustment of 713 days is properly reduced a total of 36 days, as further detailed herein.

The adjustment of 713 days is properly reduced five days, as argued by applicants, in accordance with 37 CFR 1.704(b). The reduction began July 22, 2005, the day after the date that is three months after the date that the restriction requirement was mailed, and ended July 26, 2005, the date a reply was submitted.

The adjustment of 713 days is further reduced 16 days in accordance with 37 CFR 1.704(c)(8) in connection with the IDS submitted August 11, 2005. The reduction began July 27, 2005, the day after the date that the initial reply to the restriction requirement mailed April 21, 2005 was filed, and ended August 11, 2005 the date the IDS was submitted.

Applicants argue that the reduction for the IDS is improper because the first Office action on the merits was not issued until September 8, 2005.

Applicants are advised that a restriction requirement is an action issued as a result of the examination conducted pursuant to 35 U.S.C. 131. As such, a restriction requirement is a notification under 35 U.S.C. 132. Further, submission of a supplemental reply, such as an IDS, after a reply has been filed is deemed a failure to engage in reasonable efforts to conclude prosecution. See, 37 CFR 1.704(c)(8) and MPEP 2731.

Applicants have not disputed the reduction of 16 days pursuant to 37 CFR 1.704(b) in connection with the reply submitted May 26, 2006 to the non-final Office action mailed February 10, 2006.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 676 days.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The required Patent Term Adjustment application fee of $200.00 has been charged to applicants' deposit account.

This application is being forwarded to the Office of Patent Publication for further processing.

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

Kery A. Fries

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLIED BIOSYSTEMS
500 OLD CONNECTICUT PATH
FRAMINGHAM MA 01701

In re Application of	:
James M. Coull et al	:
Serial No.: 10/096,125	: PETITION DECISION
Filed: March 9, 2002	:
Attorney Docket No.: BP-0102-US	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed April 30, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

APR 29 2003

MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA PA 19103-2921

In re Application of	:
Boiris Skurkovich et al	:
Serial No.: 10/096,127	: PETITION TO MAKE SPECIAL
Filed: March 8, 2002	:
Attorney Docket No.: 53663-5011	:

This is in response to applicants' petition filed June 14, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. The delay in acting on this petition is regretted.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-3599.

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

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte Skurkovich et al

Appeal No. 2006-0624
Application No. 10/096,127

MAILED
JUN 0 2 2006
U.S. PATENT AND TR- ARK OFFICE
BOARD OF PAT PPEALS
AND INTER NCES

DECISION ON PETITION

Appellants' attorney sent an e-mail with a letter attached on May 11, 2006 to the Chief Administrative Patent Judge of the Board of Patent Appeals and Interferences. The letter will be treated as a petition under 37 C.F.R. § 41.3. This is a decision on the petition seeking, *inter alia*, that the Decision on Appeal be stricken and that the appeal be reheard by a new panel.

FINDINGS OF FACT

1. On April 28, 2006, the Board of Patent Appeals and Interferences ("Board") issued a Decision on Appeal in this appeal.

2. The panel on the appeal consisted of Administrative Patent Judges Donald E. Adams, Demetra J. Mills and Lora M. Green, and the decision on Appeal was authored by Judge Green.

3. On May 11, 2006, appellants' attorney filed a letter addressed to the Chief Administrative Patent Judge of the Board seeking that the "Decision on Appeal be stricken from the record, a new panel be convened, an expedited hearing . . . be concluded, and an apology be issued" to appellants, their attorney, and their assignee because of an apparent conflict of interest between Judge Green's participation as a panel member in the present appeal and her activities as a former employee of the law firm of Morgan, Lewis & Bockius, LLP ("Morgan Lewis").

4. In her letter, appellants' attorney alleges that, as an employee of Morgan Lewis, Judge Green may have worked on an appeal brief in Application No. 08/995,730, now Patent No. 6,333,032, from which the present application claims priority (the "parent application").

5. In her letter, appellants' attorney did not present any evidence that Judge Green had worked on or in any way been involved with the parent application, Application No. 08/995,730.

6, Upon investigation, it has been determined that Judge Green, while employed by Morgan Lewis, never worked on or was involved with the parent application, Application No. 08/995,730, never worked on any matter for the assignee of the parent application, Advanced Biotherapy Concepts, Inc., and never billed any time to such assignee.

7. Judge Green left the employment of Morgan Lewis in December 2001.

DISCUSSION

From the foregoing, it is clear that it was proper for Judge Green to be a member of the panel for this appeal and there were no conflicts of interest present from Judge Green's previous employment at Morgan Lewis.

First, from the above findings of fact, Judge Green had not worked on or in any way been involved with the parent application, Application No. 08/995, 730.

Second, the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. § 2635, specify that an executive branch employee is precluded from participating in a matter involving his or her former employer for a period of one year after leaving the employment of such former employer. *Id.* at §2635.502(b)(iv). Since Judge Green left Morgan Lewis in 2001 and this appeal was docketed by the Board on December 28, 2005, Judge Green was not precluded by the Standards of Ethical Conduct from participating in this appeal.

For the foregoing reasons, the petition is **DENIED**.

Michael R. Fleming

Michael R. Fleming
Chief Administrative Patent Judge
Board of Patent Appeals and Interferences

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 13 2009

OFFICE OF PETITIONS

LEIGHTON K CHONG
PATENT ATTORNEY
133 KAAI STREET
HONOLULU HI 96821

In re Application of
Kostic, et al. :
Application No. 10/096,132 : DECISION ON
Filed: March 7, 2002 : PETITION
Attorney Docket No. CLK-P1 :

This is in response to the petition to revive under 37 CFR 1.137(a), filed September 28, 2009.

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

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

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed October 15, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on January 16, 2009. The Office mailed a Notice of Abandonment on September 18, 2009.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set

forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition has not satisfied requirement (3).

With respect to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2] In addition, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[3]

Petitioner has not shown why he was unavoidably prevented from filing a response to the October 15, 2008 final Office action. Petitioner argues that he had previously filed an Appeal Brief on October 9, 2008, but that it did not reach the Examiner's desk until after October 15, 2008. However, petitioner did not submit the Appeal Brief fee in full. Petitioner submitted a fee of $255

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[3] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

for the Appeal Brief. However, effective October 1, 2008, the fee was increased to $270. No authorization to charge any additional required fees to a deposit account was included. Moreover, petitioner was put on notice via the October 15, 2008 Office action that the Office action was being mailed in response to the Notice of Appeal. Petitioner himself states that he "believed that the appeal had been perfected, and no reply to the final Office action was necessary." While this may be indicative of whether or not the delay was unintentional, it does not establish that the delay was unavoidable. The record does not show that petitioner took any action in response to the final Office action.

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEIGHTON K. CHONG
PATENT ATTORNEY
133 KAAI STREET
HONOLULU HI 96821

COPY MAILED
JAN 27 2010

In re Application of	:	
Miodrag Kostic et al	:	
Application No. 10/096,132	:	ON PETITION
Filed: March 7, 2002	:	
Attorney Docket No. CLK-P1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a proper reply to the final Office action mailed October 15, 2008. A Notice of Abandonment was mailed on September 18, 2009.

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

The Office is only in receipt of $255.00 payment for the Appeal Brief filed on October 9, 2008. The current fee for the Appeal Brief is $270.00. Therefore, a balance of $15.00 remains. No authorization to charge any additional required fees to a deposit account was included.

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEIGHTON K. CHONG
PATENT ATTORNEY
133 KAAI STREET
HONOLULU HI 96821

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MAR 09 2010

In re Application of	:	
Miodrag Kostic et al	:	
Application No. 10/096,132	:	DECISION ON PETITION
Filed: March 7, 2002	:	
Attorney Docket No. CLK-P1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a previously filed appeal brief; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed October 15, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3695 for appropriate action by the Examiner in the normal course of business on the reply received February 12, 2010 and the appeal brief on October 26, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

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

In re Application of	:
Zuker, et al.	: DECISION ON APPLICATION
Application No. 10/096,144	: FOR PATENT TERM ADJUSTMENT
Filed: March 8, 2002	:
Atty. Dkt. No.: 02307E-088721US	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed March 8, 2007.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **DISMISSED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed December 5, 2006, indicated a patent term adjustment (PTA) to date of 575 days. The instant application for PTA and issue fee payment were timely received March 8, 2007. Applicants argue that the correct adjustment is 661 days.

The correct PTA at the time of the allowance is 575 days, as indicated on the Determination of Patent Term Adjustment mailed December 5, 2006.

Applicants do not dispute the adjustment of 642 days nor the reductions totaling 67 days accorded to date.

Instead, applicants' argue that the application is entitled to an additional adjustment of 86 days in accordance with 37 CFR 1.702(a)(2) and 1.703(a)(3) in connection with the appeal taken in this application.

A review of the record reveals that a notice of appeal was filed May 10, 2006 and that an appeal brief was filed September 6, 2006.

In accordance with 37 CFR 1.702(a)(2), the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was

filed or the appeal was taken. In accordance with 37 CFR 1.703(a)(4), the period of adjustment in connection with the submission of an appeal brief is the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 1.192 was filed and ending on the date of mailing of any of an examiner 's answer under § 1.193, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

In the instant application, an appeal brief was filed September 6, 2006 and the Notice of Allowance was mailed December 5, 2006. Accordingly, the Notice of Allowance was mailed within the time period allowed by law.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 575 days, as indicated in the Determination of Patent Term Adjustment mailed December 5, 2006.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The required Patent Term Adjustment application fee of $200.00 has been charged to applicants' deposit account.

This application is being forwarded to the Office of Patent Publication for further processing.

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

Kery Fries

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Siemens Corporation
Attn: Elsa Keller, Legal Administratior
Intelllectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

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OFFICE OF PETITIONS

In re Application of	:
Julio Cesar Navas	: Decision Dismissing
Application No. 10/096,154	: Petition under 37 CFR 1.138(c)
Filed: March 11, 2002	:
For: CHARACTERISTIC ROUTING	:
	:

This is a decision for the petition under 37 CFR 1.138(c) filed on June 26, 2002, for express abandonment to avoid publication of the above-identified application.

The petition is **dismissed**.

Even though the petition was received by the Office more than four weeks prior to the projected date of publication, the Office could not stop the publication of the above-identified application.

On February 6, 2003, the above-identified application was published as U.S. patent application publication No. 2003/0026268 A1.

37 CFR 1.138(c) provides:

> An applicant seeking to abandon an application to avoid publication of the application (see § 1.211(a)(1)) must submit a declaration of express abandonment by way of a petition under this section including the fee set forth in § 1.17(h) in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process. Applicant should expect that the petition will not be granted and the application will be published in regular course unless such declaration of express abandonment and petition are received by the appropriate officials more than four weeks prior to the projected date of publication.

37 CFR 1.138(c) was added in October of 2000, and, when it was added to title 37, the Office stated:

> The petition will be granted when it is recognized in sufficient time to avoid publication of application information and will be denied when it is not recognized in sufficient time to avoid publication of application information. This will avert the situation in which an applicant files a letter of express abandonment to avoid publication, the letter of express abandonment is not recognized in sufficient time to

avoid publication, upon publication the applicant wishes to rescind the letter of express abandonment, and the Office cannot revive the application (once the letter of express abandonment is recognized) because the application was expressly and intentionally abandoned by the applicant. See Changes to Implement Eighteen-Month Publication of Patent Applications; Final Rule, 65 Fed. Reg. 57024, 57034 (September 20, 2001).

In view of the fact that the above-identified application was published, the petition for express abandonment must not have been made in sufficient time to avoid publication. Since the Office has stated that if publication cannot be avoided, the petition for express abandonment will not be granted. The above-identified application is currently pending.

After this letter is mailed, the above-identified application will be returned to Art Unit 2662 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703)308-3858.

Joni Y. Chang

Joni Y. Chang
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Policy and Projects

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SIEMENS CORPORATION
ATTN: ELSA KELLER LEGAL ADMINISTRATIOR
INTELLLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN NJ 08830

COPY MAILED
JUL 0 9 2004
OFFICE OF PETITIONS

In re Application of	:	
Julio Cesar Navas	:	
Application No. 10/096,154	:	ON PETITION
Filed: March 11, 2002	:	
Attorney Docket No. 2002P03928US	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 14, 2004.

The petition is **DISMISSED AS MOOT.**

On June 26, 2002, Applicant filed a petition to expressly abandon the application for the purpose of avoiding publication. However, the petition was not timely considered, and the application published on February 6, 2003. A decision dismissing Applicant's petition was mailed on March 27, 2003. The decision stated that the application was currently pending.

In view of the above, the application is not currently abandoned. The application has been restored to pending status.

No petition fee has been charged.

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

The application file is being forwarded to Group Art Unit 2662 for examination in due course.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Glenn Patent Group
3475 Edison Way
Suite L
Menlo Park, California 94025

06-17-02 T.D MP 8 #3

Express Mail No.: EL 451 597 566 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Maxim G. Brevnov

OIPE JC55 JUN 13 2002 PATENT & TRADEMARK OFFICE

Serial No.: 10/096,176

Filed: March 8, 2002

For: SELECTIVE ELUTION OF IMMOBILIZED MULTIPLEXED PRIMER EXTENSION PRODUCTS

Group Art Unit: 2661

Examiner: To Be Assigned

Attorney Docket No.: 9584-022-999

RESPONSE TO NOTICE TO FILE MISSING PARTS FILING DATE GRANTED

BOX: Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the "Notice to File Missing Parts of Application - Filing Date Granted" mailed by the U.S. Patent and Trademark Office on April 16, 2002, Applicants submit the following documents to complete the filing for the above-identified application:

1. An executed Declaration for Non-Provisional Patent Application;
2. An executed Power of Attorney by Assignee and Exclusion of Inventor(s) Under 37 CFR 3.71 with Statement Under C.F.R. 3.73(b);
3. A Sole Assignment executed by the inventor and Recordation Form Cover Sheet; and
4. A return copy of Notice to File Missing Parts of Application - Filing Date Granted;

The United States Patent and Trademark Office is hereby authorized to charge the following fee to Deposit Account No. 16-1150:

1. Surcharge Fee for filing declaration on a date later than the filing date of the application.	**$ 130.00**
TOTAL	**$ 130.00**

The Commissioner is hereby authorized to charge any additional fees associated with this paper communication or credit any overpayment to Pennie & Edmonds LLP Deposit Account No. 16-1150.

OIPE JUN 13 2002 PATENT & TRADEMARK OFFICE

The documents submitted complete the filing of the above patent application and justify the filing date of March 8, 2002. A copy of this sheet is enclosed for accounting purposes.

Respectfully submitted,

Dated: June 13, 2002

Rahul Pathak 42,983 (Reg. No.)

For: Samuel B. Abrams (Reg. No. 30,605)
PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, New York 10036-2711
(212) 790-9090

Enclosures

#3

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
10/096,176 ✓	03/08/2002 ✓	Maxim G. Brevnov ✓	9584-022-999 ✓

CONFIRMATION NO. 5458 ✓

FORMALITIES LETTER

OC000000007874025

24341
Pennie & Edmonds, LLP
3300 Hillview Avenue
Palo Alto, CA 94304

Oath/Decl + Fees Due: 6/16/02 (JR)
Oath/Decl. + Fees Final: 10/16/02

Date Mailed: 04/16/2002

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 T Bergene
Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

RECEIVED RECORDS
APR 23 2002
RRP - 260
& DOCKETING CA OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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MAY 06 2008
OFFICE OF PETITIONS

In re Application of :
D. Ridgely Bolgiano, et al. :
Application No.: 10/096,180 :
Filed: March 12, 2002 :
Attorney Docket No.: I-1-0065.7US :

ON PETITION

This is a decision on the petition, filed May 2, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 11, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2616 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.*

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AUG 0 2 2007

OFFICE OF PETITIONS

EMIL CHANG
LAW OFFICES OF EMIL CHANG
874 JASMINE DRIVE
SUNNYDALE CA 94086

In re Application of	:	
Farazad Ehsani et al.	:	
Application No. 10/096,194	:	ON PETITION
Filed: March 11, 2002	:	
Attorney Docket No. SEH-001-C1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 2, 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 September 12, 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) was obtained. Accordingly, the application became abandoned on December 13, 2005. The Notice of Abandonment was mailed on May 4, 2006.

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

The petition fee was inadvertently charged twice, $750 will be refunded by treasury check.

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

The application file is being referred to Technology Center AU 2626 for appropriate action on the currently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No. 9

MENDELSOHN AND ASSOCIATES PC
1515 MARKET STREET, SUITE 715
PHILADELPHIA, PA 19102

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OFFICE OF PETITIONS

In re Application of
Edwin A. Chandross et al
Application No. 10/096,199
Filed: March 12, 2002
Attorney Docket No. Chandross 102-5-6

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed July 25, 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 December 4, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 5, 2003.

Petitioner asserts that his reply to the December 4, 2002 non-final Office action was timely mailed via Certificate of Mailing under 37 CFR 1.8 dated on February 27, 2003. In support, petitioner has supplied a copy of the original reply with the Certificate of Mailing dated February 27, 2003 with the instant petition, along with a copy of the relevant docket report showing a crossed-off entry with an indication that a response was filed on February 27, 2003.

The showing of record is adequate to establish unavoidable delay within the meaning of 35 U.S.C. § 151 and 37 CFR 1.137(a).

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

The application file is being forwarded to Technology Center AU 1732.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GLENN PATENT GROUP
3475 Edison Way
Suite L
Menlo Park, CA 94025

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OFFICE OF PETITIONS

In re Application of

Wynblatt, et al.

Application No. 10/096,209

Filed: March 11, 2002

Attorney Docket No. NETA0006

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed February 18, 2005. The petition will be considered under 37 CFR 1.181(a) as a petition to withdraw the holding of abandonment.

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

This application was held abandoned on October 4, 2004, after it was believed that no response was received to the non-final Office action mailed July 1, 2004. The non-final Office action allowed a period for reply of three months from its mailing date Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on February 8, 2005, indicating that a reply to the non-final Office action was not received.

A review of the record reveals that an amendment intending to be responsive to the non-final Office action was received on October 4, 2004, with a certificate of transmission under 37 CFR 1.8 dated October 1, 2004. Further review of the application file reveals that an authorization to charge a deposit account was present allowing for an extension of the time set for reply, if necessary. Based on the aforementioned, it appears that the application improperly held abandoned as a bona fide response was received prior to expiration of the shortened statutory period for reply. The holding of abandonment is withdrawn, accordingly.

No petition fee is due.

The application file is being forwarded Technology Center 2100, GAU 2162, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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CATHERINE POLIZZI
MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO CA 94304-1018

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MAR 0 1 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Nurith Kurn	:	
Application No. 10/096,221	:	
Filed: March 11, 2002	:	
Attorney Docket No. 492692000700	:	

This is a decision on the petition, filed February 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 June 8, 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 1637 will consider the request for continued examination under 37 CFR 1.114.

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

---

[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).

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)
6,915,279	2005-07-05	10/096,271	2002-03-11	070457.1136

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	/Eliot D. Williams/	Date (YYYY-MM-DD)	2009-08-27
Name	Eliot D. Williams	Registration Number	50822

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6915279
Issue Date: July 5,2005
Application No. 10096271
Filed: March 11,2002
Attorney Docket No. AP33567-A - 070457.1136

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

This is a decision on the electronic petition, filed August 27,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 27,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

MAY 26 2010

OFFICE OF PETITIONS

In re Patent No. 6,921,508	:	
Issue Date: July 26, 2005	:	
Application No. 10/096,324	:	ON PETITION
Filed: March 12, 2002	:	
Attorney Docket No. BUG-46515	:	

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 in this patent must be paid at the large entity rate.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

WELLS ST. JOHN ROBERTS GREGORY & MATKIN P.S.
601 W. FIRST AVENUE
SUITE 1300
SPOKANE WA 99201-3828

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JUL 23 2002

OFFICE OF PETITIONS

In re Application of
Tilton, et al.
Application No. 10/096,340
Filed: March 11, 2002
Attorney Docket No. IS9-021

DECISION GRANTING PETITION

This is a decision on the petition entitled "REQUEST FOR CORRECTION OF PTO RETURN POSTCARD RECEIPT DATE," filed April 17 , 2002, requesting that the above-identified application be accorded a filing date of March 11, 2002, rather than the presently accorded filing date of March 12, 2002. The petition is being treated as a petition under 37 CFR 1.10(c)

Petitioners contend that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail service on March 11, 2002. In support of this contention, petitioner has supplied with the present petition a copy of Express Mail Receipt No. EV026159103US bearing a "date-in" of March 11, 2002. The original Nonprovisional Patent Application Transmittal found in the application file and resubmitted with the present petition has transcribed on its front page the following Express Mail Receipt Number: EV026159103US .

In view of the above, the petition is **granted**.

No fee is associated with this petition.

This application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **March 11, 2002.** Thereafter, this application file will be forwarded to Technology Center 3700 for examination in due course.

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

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United States Patent and Trademark Office
P.O. Box 1450
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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Donald Tilton, et al.	:	
Application No. 10/096,340	:	
Filed: March 11, 2002	:	
Atty Docket No. IS9-021	:	

This is a decision on the petition, filed October 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 24, 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 (571) 272-3204.

The application is being referred to Technology Center AU 3744 for further processing of the request for continued examination under 37 CFR 1.114 filed October 19, 2004.

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

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

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Paper No. 12

DAVID J. ARCHER
7037 POMEROY ROAD
ROCKTON, IL 61072

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MAR 1 6 2004

OFFICE OF PETITIONS

In re Application of
Feller
Application No. 10/096,343
Filed: March 12, 2002
Attorney Docket No. 1132CON

ON PETITION

This decision concerns the petition under 37 CFR 1.137(b), filed on October 6, 2003, to revive the above-referenced application.

The petition is **GRANTED.**

The application became abandoned on December 21, 2002 for failure to timely submit a proper reply to the September 20, 2002 non-final Office Action.

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: (1) the required reply to the Office action, unless previously filed; (2) the $1,330 petition fee (other than small entity);[1] and (3) a statement that the entire delay in filing the required reply from its due date until the filing of a grantable §1.137(b) petition was unintentional.

The petition encloses: an amendment and a double patenting terminal disclaimer in response to the September 20, 2002 non-final Office Action; the $110 filing fee for the double patenting terminal disclaimer required by 37 CFR 1.20(d); the $1,330 petition fee (a $1,280 payment supplemented on October 27, 2003 with a $20 check and on March 1, 2004 with a $30 check, totaling $1,330); and the statement required in (3) above. The petition is thus granted.

In addition, as requested, the new correspondence address has been entered and made of record.

The file is being returned to Technology Center 3600 for further examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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[1] Although the petition was deposited as first class mail on 9/29/03, it was not received in the USPTO until 10/6/03 and is thus subject to the new fee schedule effective 10/1/03.

During a telephone interview on 3/15/04, counsel confirmed that Assignee is no longer entitled to small entity status.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID J ARCHER
9790 FOREST PRESERVE ROAD
DURAND IL 61024

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JAN 17 2008
OFFICE OF PETITIONS

In re Application of :
Richard L. Feller :
Application No. 10/096,343 :
Filed: March 12, 2002 :
Attorney Docket No. 1132CON :

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

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Paper No.

MICHAEL BEST & FRIEDRICH
ONE SOUTH PINCKNEY STREET
P.O. BOX 1806
MADISON, WI 53701-1806

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AUG 1 9 2003

OFFICE OF PETITIONS

In re Application of
Richard Frayne et al
Application No. 10/096,368
Filed: March 12, 2002
Attorney Docket No. 96429-9120-00

ON PETITION

This is a decision on the petition, filed August 14, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 24, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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ALEXANDRIA, VA 22313-1450
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GEORGE B.F. YEE
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: Nakano et al.	)	
Application No. 10/096,375	)	*PETITION FILED UNDER **37 CFR***
Attorney Docket No. 16869S-046200US	)	***1.48(a)** TO ADD AN INVENTOR TO THE*
Filed: 03/08/2002	)	*APPLICATION*
Title: REMOTE COPY CONTROL	)	
METHOD, STORAGE SUB-SYSTEM	)	
WITH THE METHOD, AND LARGE		
AREA DATA STORAGE SYSTEM USING		
THEM		

In the papers filed on January 5, 2006, the applicants submitted a petition under 37 CFR 1.48(a) requesting correction of the inventorship. In the petition, the applicants requested that Hiroshi Abei and Shigeru Kishiro be added as inventors of the instant application. The petition included the following information in support of the petition:

(1) A request to correct the inventorship setting forth the desired inventorship change;
(2) Statements from Hiroshi Abei and Shigeru Kishiro that the error in inventorship occurred without deceptive intention on their part;
(3) An oath or declaration by the actual inventors as required by § 1.63;
(4) The processing fee set forth in § 1.17(i); and
(5) The written consent of the assignee (see § 3.73(b)).

A review of the application reveals that the papers filed January 5, 2006 are not in compliance with 37 CFR 1.48(a). The Oath does not comply with § 1.63(c). The residence for each inventor has not been provided on the Oath filed. Therefore the inventorship of this application has not been changed.

The petition is hereby DISMISSED.

Inquiries to this decision may be directed to Supervisory Patent Examiner Reginald Bragdon at (571) 272-4204.

Reginald Bragdon

Reginald B. Bragdon

Supervisory Patent Examiner
Art Unit 2189
Technology Center 2100
Computer Architecture, Software, and Information Security

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

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FEB 2 9 2008

OFFICE OF PETITIONS

In re Patent No. 7,206,322	:	
Issue Date: April 17, 2007	:	
Application No. 10/096,402	:	DECISION ON PETITION
Filed: March 11, 2002	:	
Attorney Docket No 003493.00350	:	

This is a decision on the petition, filed August 6, 2007, under 37 C.F.R. § 1.181 to accept a deficient issue fee payment.

The petition is **GRANTED**.

Petitioner asserts that during the submission of the issue fee payment by EFS on March 6, 2007, a design issue fee amount of $800 was erroneously checked on the EFS fee submission page, instead of the utility issue fee amount. The PTOL-85 submission indicates the correct issue fee amount of $1,400. Additionally, authorization was given in the PTOL-85, box 4b, to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account No. 19-0733. A review of the application confirms this.

It is noted that the application issued into a patent on April 17, 2007. However, in view of the above, the correct issue fee payment will be charged to petitioner's deposit account as authorized on March 6, 2007.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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ELSA KELLER, SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMET
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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JAN 24 2006
OFFICE OF PETITIONS

In re Application of
Richard Hansler, et al.
Application No. 10/096,440
Filed: March 12, 2002
Attorney Docket No. 74953/20185

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 20, 2006 to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Larry B. Donovan appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Donovan desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Donovan, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 19, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

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

The application is being referred to Technology Center AU 2875 for further processing of the request for continued examination under 37 CFR 1.114 filed January 20, 2006.

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

cc: LARRY B. DONOVAN
TUCKER, ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1475

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WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON, MA 02109

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OCT 28 2005

OFFICE OF PETITIONS

In re Application of	:
Navid Yazdi et al	:
Application No. 10/096,457	: DECISION ON PETITION
Filed: March 12, 2002	: UNDER 37 CFR 3.81(b)
Attorney Docket No. 112222-132	:

This is a decision on the "Request to Issue Patent to Assignee Pursuant to 37 CFR §3.81," filed May 23, 2005.

The request is **dismissed** as unnecessary for the reasons stated below.

Petitioner states that, on May 18, 2005, an assignment was facsimile transmitted to the USPTO identifying Corning Incorporated as the assignee. In view of the submission of the assignment, petitioner requests that Corning Incorporated appear on the printed Letters Patent.

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

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

As 37 CFR 3.81(b) pertains to applications where it is requested that the patent issue in the name of the assignee after payment of the issue fee, the relief requested by this rule is unnecessary. In this regard, Office records show that the assignment was submitted prior to payment of the issue fee and, furthermore, the desired assignee information appears on the Fee(s) Transmittal form. Therefore, the Letters Patent will issue to the assignee appearing on the Fee(s) Transmittal form at the time of submission of the issue fee without the need to file a request therefor.

Any inquiries concerning this decision on petition may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DANIEL R. GROPPER, PC
9908 DALE RIDGE CT.
VIENNA VA 22181

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MAR 17 2008

In re Application of	:	
CHALKE, Shane A. et al.	:	
Application No. 10/096,465	:	DECISION ON PETITION
Filed: March 12, 2002	:	TO WITHDRAW
Attorney Docket No. **455.01**	:	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 07, 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 Daniel Gropper, the sole attorney of record. Daniel Gropper has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed February 11, 2008 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SHANE A. CHALKE**
108—G SOUTH ST.
LEESBURG, VA 20175

cc: **SEAN T. DONAGHY**
EBIX, INC.
5 CONCOURSE PKWY, SUITE 300
ATLANA, GA 30328

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Paper No.

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

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MAR 03 2008

OFFICE OF PETITIONS

In re Application of	:	
Matteo Passoni et al.	:	
Application No. 10/096,510	:	DECISION ON PETITION
Filed: March 13, 2002	:	PURSUANT TO
Attorney Docket Number:	:	37 C.F.R. § 1.137(B)
2502-1002	:	
Title: METHOD FOR COLLECTING	:	
AND ELIMINATING FLYING DUST	:	

This is a decision on the petition filed December 21, 2007, 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 non-final Office action, mailed November 24, 2006, 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)

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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.

were requested. Accordingly, the above-identified application became abandoned on February 25, 2007. A notice of abandonment was mailed on July 2, 2007.

With the present petition, Petitioner has indicated that a divisional of the present application was filed concurrently with this petition on December 21, 2007. It is noted that this filing has been assigned an application number of 12/003,268.

As such, the present petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of divisional application number 12/003,268.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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OCT 20 2008

OFFICE OF PETITIONS

In re Application of	:	
ARNASON, et al.	:	
Application No. 10/096,521	:	DECISION GRANTING PETITION
Filed: March 11, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **ITET 02US**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 17, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 19, 2008 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

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

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AMSTER, ROTHSTEIN & EBENSTEIN
90 PARK AVENUE
NEW YORK NY 10016

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AUG 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Wilhelmus Marinus Carpay :
Application No. 10/096,545 :
Filed: March 12, 2002 :
Attorney Docket No. 65959/19 :

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 undersigned at (703) 305-8859.

This file is being referred to Technology Center AU 1743.

Karen Creasy

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

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)
6580042	2003-06-17	10096566	2002-03-13	

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

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Bree L Miller/	Date (YYYY-MM-DD)	2008-03-11
Name	Bree L Miller		
Enter Reel and Frame Number		Remove	
Reel Number	012697	Frame Number	0541
Enter Reel and Frame Number		Remove	
Reel Number	015509	Frame Number	0375
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6580042
Issue Date: June 17,2003
Application No. 10096566
Filed: March 13,2002
Attorney Docket No. 27430.00

:

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

:

This is a decision on the electronic petition, filed March 11,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 11,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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7/3/07

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

Paper No. 15

In re Application of
KHOO, Kah Hin
Appl No.: 10/096,593
Filed: March 14, 2002

DECISION GRANTING PETITION
37 CFR 1.181

This is a decision on petitioner's request filed November 18, 2005 to review the holding of abandonment, mailed February 7, 2005. The petition is considered pursuant to 37 CFR 1.181 and no fee is required for this petition.

The petition is granted.

A review of the record indicates that a non-final action was mailed on October 23, 2003 with a shortened period for response of three months. Petitioner alleges that an amendment to the claims was timely filed. In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped post card receipt dated February 23, 2004 (with a one-month extension). Furthermore, the originally filed response is now in the application file.

In view of the above, the Notice of Abandonment mailed February 7, 2005 is hereby vacated and the holding of abandonment is withdrawn. The application will be forwarded to the Technical Support Staff to return the application to an active status and for entry of the amendment. The application will then be forwarded to the examiner.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 9

GOTTLIEB RACKMAN & REISMAN, P.C.
270 MADISON AVENUE
NEW YORK, NY 10016

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JUN 01 2004

OFFICE OF PETITIONS

In re Application of	:	
Ellis Kern et al	:	
Application No. 10/096,606	:	ON PETITION
Filed: March 13, 2002	:	
Attorney Docket No. 1974-129	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 3, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 4, 2003.

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 1732 for further processing.

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

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Commissioner for Patents
United States Patent and Trademark Office
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JAY H. MAIOLI
COOPER & DUNHAM
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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SEP 23 2005
OFFICE OF PETITIONS

In re Application of	:
Masayuki Nishiguchi et al	:
Application No. 10/096,621	: DECISION GRANTING PETITION
Filed: March 13, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 277912US6DIV	:

This is a decision on the petition, filed September 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 23, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that petitioner herein, Mr. Bradley D. Lytle, was ever given a power of attorney in this application. In accordance with 37 CFR 1.34(a), the signature of Mr. Lytle appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If Mr. Lytle desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Lytle. However, until otherwise instructed, all future

---

[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).*

correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

This matter is being referred to the file will be forwarded to Technology Center AU 2644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Oblon Spivak McClelland Maier & Neustadt, PC
1940 Duke Street
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DIW Dec-08

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

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OFFICE OF PETITIONS

In re Patent Number: 6,975,732 :
Issue Date: December 13, 2005 :
Application Number: 10/096,621 : ON PETITION
Filing Date: March 13, 2002 :
Atty. Dkt. No.: 277912US8DIV :

This is a decision on the "PETITION UNDER 37 C.F.R. 1.181(A)(2)" filed June 23, 2008. This matter is also being treated under 37 CFR 1.182 and 1.183 as a petition to nullify the effect of the terminal disclaimer filed June 13, 1994 in U.S. App. No. 07/600,818.

In accordance with 37 CFR 1.181(a)(2), petition may be taken to the Director "[i]n cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director."

In accordance with 37 CFR 1.182, "[a]ll situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(f)."

In accordance with 37 CFR 1.183, "[i]n an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f)."

In accordance with 35 USC 120, "[a]n application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same

effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application."

U.S. App. No. 10/096,621 (hereinafter, the '621 application) was filed March 13, 2002. The '621 application issued as U.S. Pat. No. 6,975,732 on December 13, 2005. The '621 application is a division of U.S. App. No. 08/747,910, filed November 12, 1996, (now U.S. Pat. No. 6,695,477, issued February 24, 2004), which is a division of U.S. App. No. 07/600,818 (hereinafter, the '818 application), filed October 22, 1990 (now U.S. Pat. No. 5,640,458, issued June 17, 1997). The '621 application is subject to the terminal disclaimer filed June 13, 1994 in the '818 application.

The '818 application became abandoned April 24, 1992 for failure to timely submit a proper reply to the non-final Office action mailed January 23, 1992. Notice of Abandonment was mailed August 25, 1992. A petition to revive pursuant to 37 CFR 1.137(a) was filed June 13, 1994. The petition to revive included the required terminal disclaimer which stated in pertinent part that petitioner "hereby disclaims the terminal twenty-six (26) months of any patent granted on said Application Serial No. 07/600,818 or on any application which is entitled to the benefit of the filing date of said Application No. Serial No. 07/600,818 under 35 U.S.C. 120." The petition was granted and the application revived September 6, 1994.

Petitioner requests under "37 C.F.R. §1.181(A)(2)" that the Director nullify any effect that the terminal disclaimer filed June 13, 1994 in the '818 application has on the instant patent.

Petitioner argues that this request is "made consistent with 37 C.F.R. § 1.182."

Petitioner requests that "37 C.F.R. § 1.182(f)" be suspended pursuant to 37 CFR 1.183.

After issuance of a patent, it is unlikely that a terminal disclaimer will be nullified. See, MPEP 1490 VII. Thus, petitioner must establish by clear convincing evidence that that the terminal disclaimer filed in the '818 application should not be given full force and effect in the instant patent.

Petitioner argues that the effect of the terminal disclaimer filed in the '818 application should be nullified in the instant patent because patentee "had no opportunity to challenge the propriety in giving this terminal disclaimer effect" over the instant patent.

The petition argues that the effect that the terminal disclaimer filed in the '818 application has over the instant patent should be nullified because the terminal disclaimer should be withdrawn in the '818 application. Further, petitioner argues that the "balance of equities" favors nullifying any effect the terminal disclaimer filed June 13, 1994 in the '818 application has on the instant patent. These arguments are based on petitioner's contention that the submission of the terminal disclaimer in the '818 application was necessitated by USPTO error.

The merits of said arguments, i.e., withdrawal and/or nullification of the terminal disclaimer filed in the '818 application, were previously addressed by way of petition filed in the '818 application and dismissed by way of decision mailed November 10, 2008 and are not subject to reconsideration herein.

Petitioner further argues that the effect that the terminal disclaimer filed in the '818 application has over the instant patent should be nullified because patentee "had no opportunity to challenge the propriety in giving this terminal disclaimer effect" over the instant patent.

Said argument is not found convincing. The instant patent issued from the '818 application and also claims the benefit thereof under 35 U.S.C. 120. As such, the instant patent is subject to the terminal disclaimer filed June 13, 1994 in the '818 application because any patent which issues from a continuing application filed under 35 U.S.C. 120, claiming the benefit of the '818 application, is, by statute, subject to all of the limitations which apply to the '818 application.

By filing the terminal disclaimer in the '818 application, applicant therein agreed that the terminal disclaimer would apply to any patent granted on any continuing utility application. At the time that the '621 application was filed on March 13, 2002, wherein the claim under 35 USC 120 was made, applicant was fully aware that any patent issuing from the '621 application would be subject to the terminal disclaimer filed in the '818 application. Thus, prior to the issuance of the instant patent, applicant had ample opportunity to challenge the full force and effect that the terminal disclaimer filed in the '818 application would have over

the instant patent. Petitioner has presented no convincing argument for failure to seek the relief now sought at any time prior to the submission of the instant petition.

As set forth at MPEP 1490 VII B, as a general principle, public policy does not favor the restoration to the patent owner of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner – e.g., intervening rights in the case of a reissue patent. See, e.g., Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935)

Further, as set forth at MPEP 1490, "[w]hile the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "un-happy circumstance" in In re Jentoft, 392 F.2d 633, 157 USPQ 363 (CCPA 1968), there is no statutory prohibition against nullifying or otherwise canceling the effect of a recorded terminal disclaimer which was erroneously filed **before** the patent issues. Since the terminal disclaimer would not take effect until the patent is granted, and the public has not had the opportunity to rely on the terminal disclaimer, relief from this unhappy circumstance may be available by way of petition or by refiling the application (other than by refiling it as a CPA)." (Emphasis added.)

Thus, after careful consideration, it is found that the showing set forth by petitioner does not warrant the setting aside of well established public policy. Applicant had ample opportunity to timely seek the relief now sought prior or subsequent to the issuance of either the '818 application or the '621 application as patents. Applicant, for reasons which have never been stated, did not seek such relief; as a consequence, the instant patent remains subject to the terminal disclaimer filed in the '818 application.

In view thereof, the petition under 37 CFR 1.181 is **DISMISSED ON THE MERITS and DISMISSED AS UNTIMELY**.

The petition under 37 CFR 1.183 is hereby **DISMISSED** for failure to set forth an "extraordinary situation" within the meaning of 37 CFR 1.183 to warrant waiver or suspension of any particular rule or regulation.

Finally, the petition under 37 CFR 1.182 to nullify the effect upon the instant patent of the terminal disclaimer recorded in the '818 application is **DISMISSED**.

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 inquires should be directed to the undersigned at 571-272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 3

MARY P. BAUMAN
FREDRIKSON & BYRON, P.A.
4000 PILLSBURY CENTER
200 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402

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MAY 0 9 2003

OFFICE OF PETITIONS

NOTICE

In re Application of :
Richard Kusleika :
Application No. 10/096,628 :
Filed: March 12, 2002 :
Attorney Docket No. 16848.134.0.1 :

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

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

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

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

This file is being forwarded to Technology Center 3700.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

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APR 0 9 2003

OFFICE OF PETITIONS

In re Application of
Buda et al.
Application No. 10/096,657
Filed: March 14, 2002
Attorney Docket Number: Q68778

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a), filed November 15, 2002 (transmission date November 13, 2002).

The above-identified application was filed on March 14, 2002, without an executed oath or declaration. Accordingly, on April 10, 2002, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration, and pay a surcharge for the late filing of an executed oath or declaration. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. Applicant also filed a request for a five-month extension of time (and fee). However, applicant should note the five month extension of time is insufficient to make this response timely. The five month extension of time provided applicant with the opportunity to respond by November 12, 2002.[1]

A review of the record shows the petition was submitted via facsimile on November 13, 2002 at 12:57 am. Further review of the record indicates a certificate of transmission within the meaning of 37 CFR 1.8 was not submitted.[2] Petitioner has merely signed

---

[1]The two month response period gave petitioner until June 10, 2002. The purchase of the five month extension required petitioner to submit a response by November 10, 2002 which was a Sunday. Normally petitioner would have been required to respond by Monday November 11, 2002. However November 11, 2002 was a Federal Holiday. Thus petitioner had until November 12, 2002 to make a timely response.

[2]1.8 Certificate of mailing or transmission.
(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
(1) Correspondence will be considered as being timely filed if:
(I) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal

and dated the petition which does not equate to a certificate of transmission pursuant to 37 CFR 1.8.

The petition under 37 CFR 1.47(a) is **Dismissed** as untimely.
Accordingly, this application is **Abandoned.**

Deposit account 19-4880 has been charged the $130.00 petition fee and the $130.00 late oath/declaration surcharge. The account has not been charged the five month extension of time fee as the maximum extendable time period expired on November 12, 2002.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (a grantable petition under 37 CFR 1.47), unless previously filed[3] ; (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).

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 22202

Service with sufficient postage as first class mail; or
(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

[3]A grantable petition under 37 CFR 1.47(a) has been filed.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Paper No. 7

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

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JUN 1 8 2003

OFFICE OF PETITIONS

In re Application of
Buda et al.
Application No. 10/096,657
Filed: March 14, 2002
Attorney Docket Number: Q68778

DECISION ON PETITION

This is in response to the renewed petition under 37 C.F.R. §1.47(a), filed June 9, 2003 (transmission date November 13, 2002).

The above-identified application was filed on March 14, 2002, without an executed oath or declaration. Accordingly, on April 10, 2002, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration, and pay a surcharge for the late filing of an executed oath or declaration. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. Applicant also filed a request for a five-month extension of time (and fee). However, applicant should note the five month extension of time is insufficient to make this response timely. The five month extension of time provided applicant with the opportunity to respond by November 12, 2002.[1] A petition filed under 37 CFR 1.47 a was dismissed as being untimely on April 9, 2003.

Petitioner maintains the petition was timely submitted on November 12, 2002. Petitioner states the petition was transmitted on November 12, 2002, but due to petitioner's failure to adjust the time on his fax machine due to day light savings time the time reflected on the fax transmittal is one hour ahead of time. Thus, petitioner contends the petition was faxed on November 12, 2002 at 11:54 pm versus the 12:59 am which is indicated on the petition. Petitioner also contends the USPTO should have requested additional information rather than holding the application abandoned for the untimely submission of the petition.

In support petitioner has supplied a copy of the sending units report confirming transmission. A hand written notation is made by petitioner which indicates after he faxed the petition he called a number which provides the Official Government time

[1]The two month response period gave petitioner until June 10, 2002. The purchase of the five month extension required petitioner to submit a response by November 10, 2002 which was a Sunday. Normally petitioner would have been required to respond by Monday November 11, 2002. However November 11, 2002 was a Federal Holiday. Thus petitioner had until November 12, 2002 to make a timely response.

which indicated the time was "11:59 and ten seconds".

Petitioner's argument has been considered but it is not persuasive to establish the petition and request for extension of time was timely submitted. The USPTO is under no obligation to contact petitioner to request additional evidence. 37 CFR 1.8 (c) states the Office **may** require additional information to determine if correspondence was timely submitted. Petitioner insists a certificate of transmission was submitted with the petition. However a review of the record does not show a copy of the certificate of transmission within the meaning of 37 CFR 1.8 was submitted with either the original petition of November 15, 2002 or with the renewed petition.[2] If petitioner has a certificate of transmission, one should be submitted on renewed petition.

As to the sending unit's report confirming transmission of the petition, it does not serve to advance petitioner's argument because it shows the petition was transmitted on November 13, 2002. Unfortunately the onus is on petitioner to establish the petition was timely transmitted. The handwritten note regarding the "actual time" time the petition was transmitted can not overcome the time and date (November 13, 2002 12:54) printed on the petition and the lack of a certificate of transmission.

The renewed petition under 37 CFR 1.47(a) is **Dismissed** as untimely.

Petition under 37 CFR 1.137 (b)

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (a grantable petition under 37 CFR 1.47), unless previously filed[3] ; (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))

---

[2] 1.8 Certificate of mailing or transmission.
(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
(1) Correspondence will be considered as being timely filed if:
(I) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

[3] A grantable petition under 37 CFR 1.47(a) has been filed.

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).

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 9

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SEP 2 9 2003

OFFICE OF PETITIONS

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

In re Application of
Fabien Buda, Emmanuel Lemois, Valerie Cueff
and Michael Debbah
Application No.10/096,657
Filed: March 14, 2002
Attorney Docket Number: Q68778
Title of Invention: METHOD OF RECOVERING
DIGITAL SIGNAL PACKET TIMING

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 27, 2003.

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. The efforts outlined by petitioner demonstrate diligent effort was used to attempt to locate non-signing inventor Debbah.

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 the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael Debbah
84 bis Cours de Vincennes
75012 Paris
France

In re Application of
Fabien Buda, Emmanuel Lemois, Valerie Cueff and Michael Debbah
Application No.10/096,657
Filed: March 14, 2002
Attorney Docket Number: Q68778
Title of Invention: METHOD OF RECOVERING DIGITAL SIGNAL PACKET TIMING

LETTER

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OFFICE OF PETITIONS

Dear Mr. Debbah:

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 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, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

David Cushing
SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MAY 28 2002

OFFICE OF PETITIONS

STAAS & HALSEY LLP
700 11TH STREET, NW
SUITE 500
WASHINGTON DC 20001

In re Reissue Application of :
Le and Wevers :
Application No. 10/096,662 : DECISION REFUSING STATUS
Filed: March 14, 2002 : UNDER 37 CFR 1.47(a) and
For: Method and Apparatus for : Requiring an Abstract
Providing Positional Information on
a Disk

The above-identified application was filed without the abstract of the invention required by 37 CFR 1.72(b). An Abstract of the Invention is required. The abstract must be on a separate sheet.

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March 14, 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. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The reply to this decision may include an oath or declaration executed by the non-signing inventor in compliance with 37 CFR 1.63. (If a declaration is filed by the currently non-signing inventor, please make sure that the declaration lists all inventors and does not suggest that the inventor is a sole inventor, such a declaration will neither comply with 37 CFR 1.63 nor evidence that the inventor is willing to join in the filing of this application.)

The petition states that joint inventor William Wevers has retired and cannot be located. Dong ho Lee, Senior Manager of Samsung Electronics Co., Ltd., explains that Samsung contacted Jeffrety Aiello, patent manager for Samsung Information Systems America (SISA), and Mr. Aiello replied that he has no information on how to contact Mr. Wevers. The declaration for the reissue application was signed by joint inventor Le, and by Mr. Dong-Ho Lee on behalf of Mr. Wevers.

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

As to item (1), Rule 47 applicant has failed to show that the inventor cannot be reached. Correspondence should be sent to the last known address of the non-signing inventor. Since the inventor has retired, if the he is receiving retirement benefits, his former employer should have a current address. Moreover, calls can be made through directory assistance to obtain a current telephone number for him. A copy of the application papers should be sent to the last known address of the non-signing inventor with a request that he sign the declaration for the patent application. A forwarding address should be requested, if the papers are returned, and other attempts to locate the inventor, e.g., through e-mail or the telephone continue to fail, then applicant will have established that the inventor cannot be reached.

As to item (2), under 35 U.S.C. 116, the joint inventor is required to sign on behalf of the inventor who cannot be reached. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by Mr. Le on behalf of himself and Mr. Wevers is REQUIRED. See MPEP 409.03(a).

As to item (4), a statement of the inventor's last known address is missing and is required.

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 South Clark Place
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-3159.

Karin Ferriter

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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STAAS & HALSEY LLP
SUITE 700
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WASHINGTON DC 20005

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FEB 17 2004

OFFICE OF PETITIONS

In re Reissue Application of :
Le and Wevers :
Application No. 10/096,662 : Decision Dismissing
Filed: March 14, 2002 : Petition as Moot
For: Method and Apparatus for :
Providing Positional Information on
a Disk

This is in response to the papers filed September 24, 2002, including the requested abstract and a declaration signed by the previously non-signing inventor.

Since both inventors have now signed the declaration, the petition is dismissed as moot.

After this decision is mailed, the above-identified application will be forwarded to Group Art Unit 2753 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-3159.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/10/08

Paper No.: —

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/096662 Patent No: RE39831E

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.

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

Comments: _____

/Paul Huber/
Primary Examiner, AU 2627

SPE

2627
Art Unit

O I P E IAP97
DEC 12 2007
PATENT & TRADEMARK OFFICE

Cofc

Attorney Docket No. 1317.1072RE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Me Van LE et al.

Application No.: 10/096,662

Confirmation No.: 6101

Filed: March 14, 2002

U.S. Patent No.: RE39,831

Issued: September 11, 2007

ATTENTION

CERTIFICATE OF CORRECTION

BRANCH

For: METHOD AND APPARATUS FOR PROVIDING POSITIONAL INFORMATION ON A DISK

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Patentees respectfully request that a Certificate of Correction be issued in the subject patent, pursuant to 35 U.S.C. §254 and 37 C.F.R. §1.322, to correct the mistakes shown on the attached Form PTO-1050.

Since the mistakes are Patent Office mistakes, it is believed that no fee is required.

"OK to Enter"

/PWH/

11/10/2009

Respectfully submitted,

STAAS & HALSEY LLP

Date: Dec. 5, 2007

By: _____
Gene M. Garner, II
Registration No. 34,172

1201 New York Ave, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

Certificate
DEC 14 2007
of Correction

DEC 14 2007.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STOEL RIVES LLP
201 SOUTH MAIN STREET, SUITE 1100
SALT LAKE CITY, UT 84111

COPY MAILED

MAR 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Keiya Ozawa, et al.	:	
Application No. 10/096,723	:	ON PETITION
Filed: March 13, 2002	:	
Attorney Docket No. 1024.US	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 31, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed March 7, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on May 8, 2006. *See* MPEP 1215.04. On October 31, 2007, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Ming Deng appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Deng desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

[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. While the statement is not made by an attorney of record, 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.

This application is being referred to Technology Center AU 1632 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MING DENG
15 PLEASANT STREET CONNECTOR
FRAMINGHAM, MA 01701-932

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Thomas M. Champagne
IP Strategies, P.C.
Suite 301
806 7th Street, NW
Washington, DC 20001

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JUL 3 0 2003

OFFICE OF PETITIONS

In re Application of
Bizziocchi
Application No. 10/096,746
Filed: March 13, 2002
Attorney Docket No. BIZ101NPCIP

DECISION ON PETITION

This is a decision on the petition filed September 16, 2002, requesting that the requirement for further substitute drawings set forth in the Notice of Incomplete Reply mailed August 23, 2002 be withdrawn. Receipt of the petition fee is acknowledged.

Application papers in the above-identified application were filed on March 13, 2002. However, on April 19, 2002, the Office of Initial Patent Examination (OIPE) mailed applicants a "Notice to File Missing Parts of Nonprovisional Application," stating *inter alia* that the application papers had been accorded a filing date of September 9, 2002; however, substitute drawings in compliance with 37 CFR 1.84 were required. Specifically, the Notice stated that the drawings are not acceptable because they do not have appropriate margins and they contain excessive text.

On June 17, 2002, applicants filed a reply to the Notice, which included substitute drawings. However, on August 23, 2002, the Office mailed a "Notice of Incomplete Reply (Nonprovisional)," indicating that the application papers still were not in compliance with § 1.84 for the same reasons previously noted.

In response, applicants filed the instant petition. Applicants assert that the substitute drawings filed June 17, 2002, contained margins in compliance with § 1.84, and that excessive text was removed from the drawings. With regard to the margins, applicants state that they have spoken to personnel in the Initial Patent Examination Division and have been advised that the margin requirements have been complied with.

With regard to the excessive text, applicants argue that because the invention is directed to a method of displaying text, and the claims recite an arrangement of text, such as on a page of paper, the drawing still included a large amount of text. However, because it is necessary to show this text in order to properly claim the invention, it is respectfully submitted that the text is not excessive. Applicants further reference §§ 1.84(o) and 1.83(a), pointing out that the text is not in the legend, and that the claims recite aspects of manipulating and displaying the text, and therefore, this text must be shown.

37 CFR § 1.2 provides, in pertinent part, that:

> 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.

Accordingly, a determination of whether margin requirements have been met cannot be made based on what applicants state has been told to them by the Initial Patent Examination Division. Nonetheless, the substitute drawings filed on June 17, 2002, have been reviewed on petition and it appears that the margins have been reduced as directed. It appears that the "Notice of Incomplete Reply" was sent primarily because of the conclusion that the substitute drawings ocntinued to contain excessive text. In light of the decision regarding the excessive text requirement, discussed below, the application file is being returned to the Initial Patent Examination Division for reconsideration of whether the margin requirement has been met.

Consistent with their authority to review applications for compliance with § 1.84, OIPE reviewed the drawings filed in this application and determined that they contain excessive text. A review of the drawings as originally filed reveals no error in OIPE's conclusion. Nonetheless, applicants set forth persuavive arguments as to why the text should not be considered excessive. The record reveals no other basis for the requirement for removal of the text than 37 CFR § 1.84. Petitioners' arguments outweigh the policy considerations of § 1.84 as implemented by OIPE. (It is noted that this decision does not supersede any subsequent decision on other grounds by either the examiner upon consideration of the application on the merits, or another component of the Office that the text is excessive).

In view thereof, the petition is **GRANTED** to the extent that the requirement for substitute drawings because of excessive text set forth in the Notice of Incomplete Reply mailed August 23, 2002 is hereby **withdrawn**.

The application file is being returned to the Office of Initial Patent Examination (OIPE) for

- completion of pre-examination processing using the substitute drawings filed June 17, 2002;
- withdrawal of the requirement for substitute drawings because of excessive text; and
- reconsideration of whether the substitute drawings filed June 17, 2002 have appropriate margins (OIPE should consider whether the requirement for substitute drawings because of inappropriate margins set forth in the Notice of Incomplete Reply mailed August 23, 2002, should also be withdrawn).

Telephone inquiries regarding this matter should be directed to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
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. 7

LISA L. PARKS
605 PALOMINO CIRCLE
PASO ROBLES, CA 93446

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Don E. Bice et al :
Application No. 10/096,756 :
Filed: March 12, 2002 :
Attorney Docket No. 08591-02 (6931/60195) :

ON PETITION

This is a decision on the petition, filed March 9, 2004, 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.

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 petition to revive submitted on March 9, 2004 was not signed. All communications received at the USPTO must be signed by all applicants (inventors). See 37 CFR 1.33(b) states:

> "Amendments and other papers filed in the application must be signed by: (1) An attorney or agent of record appointed in compliance with § 1.34(b); (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a); (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest; (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or (5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless

there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73."

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

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

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5684.[1]

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LISA L. PARKS
3505 ANGELUCCI STREET, #1-M
SAN DIEGO, CA 92111

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MAY 16 2005
OFFICE OF PETITIONS

In re Application of :
Don E. Bice et al :
Application No. 10/096,756 :
Filed: March 12, 2002 :
Attorney Docket No. 08591-02 (6931/60195) :

ON PETITION

This is a decision on the petition, filed October 12, 2004, 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.

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 petition to revive submitted on October 12, 2004 was signed by Debra Leasure, power of attorney for Don Bice. The USPTO records show Derrick Brennan is the second inventor; therefore, the signature of Derrick Brennan is required on the petition. See 37 CFR 1.33(b).

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

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

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (703) 872-9306
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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SEP 20 2005

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

In re Application of	:
Andrew J. Dannenberg et al	:
Serial No.: 10/096,819	: PETITION DECISION
Filed: March 14, 2002	:
Attorney Docket No.: CRF D-2685	:

This is in response to the renewed petition under 37 CFR 1.181, filed July 26, 2005, requesting withdrawal of the Finality of the Office action mailed May 23, 2005.

BACKGROUND

A review of the file history shows that the examiner mailed an Office action to applicants on November 4, 2004, in which claims 8-11, 19-21, 26-30 and 32-33 were rejected under 35 U.S.C. 112, first paragraph, as lacking enablement in the specification, and claims 8-11, 27-30 and 32-33 were rejected under 35 U.S.C. 103(a) as unpatentable over Falk et al in view of Prior et al, Robinson et al and Pentland et al. Claims 8-11, 19-21, 26-30 and 32-33 were rejected under 35 U.S.C. 103(a) as unpatentable over Falk et al in view of Prior et al, Robinson et al and Pentland et al, and further in view of zur Hausen.

Applicants replied on December 28, 2004, by amending claims 9, 10, 26, 32 and 33 and adding claim 34 while canceling claims 8, 19-21 and 27-30 (thus the canceled claims were now 1-8, 11-19, 21-25 and 27-31). Applicants addressed all rejections in the argument for patentability of the claims.

The examiner mailed a Final Office action to applicants on May 23, 2005, again rejecting claims 9-10, 20, 26 and 32-34 under 35 U.S.C. 112, first paragraph, as lacking enablement in the specification, and under 35 U.S.C. 103(a) as unpatentable over Falk et in view of Prior et al, Robinson et al, Pentland et al, and zur Hausen.

Applicants filed an amendment after Final rejection with a request to withdraw the Finality of the rejection on June 10, 2005. Claim 32 was proposed to be amended to specify oral administration with the other claims being unamended. Applicants requested withdrawal of the finality based

on the rejection under 35 U.S.C. 112, first paragraph, being markedly different from the previous Office action. Applicants further replied to each of the rejections of record.

The examiner mailed an Advisory action to applicants on July 14, 2005, denying entry of the amendments on the basis that they raise new issues and refusing to withdraw finality as the changes in the 35 U.S.C. 112, first paragraph, rejection were necessitated by applicants' amendments and arguments.

This petition followed on July 26, 2005.

DISCUSSION

Applicants' petition specifically addresses the rejection under 35 U.S.C. 112, first paragraph, as being of a different scope and requirement from that of the previous Office action. The examiner supports the rejection for lack of enablement by discussing the factors set forth in *In re Wands*. These factors relate to the nature of the inventions and state of the prior art and its unpredictability and to the skill of those working in the art in relation to the breadth of the claims, directions and guidance in the specification including working examples and degree of experimentation necessary. The examiner concludes that the claims must be rejected for undue experimentation. The discussion of the Wands factors with respect to the claimed method of use of a compound the examiner is similar in nature to the discussion of the same factors in the previous Office action, but modified somewhat to address applicants' arguments. The examiner makes some additional arguments that the claimed method of use of a compound for treating a disease or condition must show that the compound performs as taught in the specification and makes reference to safety and side effects which may be undesirable under long term use. Thus experimentation to determine such things as long term dosage protocols, etc., would seem necessary here for proper enablement. However, safety is not one of the criteria for enablement or patentability. The examiner in the Advisory action states that the FDA's recommendations as to clinical use of drugs is not the standard for enablement under 35 U.S.C. 112, first paragraph, but the examiner clearly has suggested that lack of some type of dosage regimen disclosure precludes enablement. The examiner further states that some embodiments of the claimed invention are enabled by the specification and identifies one, but seems to indicate that such embodiment is not within the scope of the pending claims.

In summary, it appears that the examiner has modified the rejection under 35 U.S.C. 112, first paragraph in response to applicants' amendments filed December 28, 2004, which modification appears to have been made to address some of applicants' amendments. It appears, therefore, that the finality of the last Office action was proper and is not withdrawn.

The petition is **DENIED.**

The Office action mailed May 23, 2005, remains a Final Office action. Applicants remain under obligation to provide a proper reply thereto within the time period set therein in order to avoid abandonment.

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

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Mintz Levin Cohn Ferris Glovsky and Popeo PC
12010 Sunset Hills Road
Suite 900
Reston, VA 20190

COPY MAILED
SEP 2 9 2003
OFFICE OF PETITIONS

In re Application of	:	
Shaefer et al.	:	DECISION ON
Application No. 10/096,828	:	PETITION
Filed: March 14, 2002	:	
Attorney Docket No. 20837-008	:	

This is a decision on the petition, filed August 5, 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 eighteen-month publication country on March 14, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission Of Nonpublication Request And/Or Notice Of Foreign Filing, which sets forth the projected publication date of January 1, 2004, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2654 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission Of Nonpublication Request And/Or Notice Of Foreign Filing

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

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

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OFFICE OF PETITIONS

In re Application of
Ogasawara
Application No. 10/096,867
Filed: March 14, 2002
Attorney Docket No. 32014-178441

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed August 18, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on January 26, 2006. The final Office Action set a three (3) month shortened statutory period for reply. A three (3) month extension of time was obtained under the provisions of 37 CFR §1.136(a). A Request for Continued Examination (RCE) was filed on July 26, 2006. The RCE was treated as an improper request because it was not accompanied by a submission as required pursuant to 37 CFR 1.114. Accordingly, this application became abandoned on July 27, 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 amendment will be forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

June 5, 2008

Cary W. Brooks
P. O. Box 4390
Troy, MI 48099-4390

Patent No.: 7,321,157 B2
Application No.: 10/096,870
Inventor(s): Lidong Chen
Issued: January 22,2008
Title: **$COSB_3$-BASED THERMOELECTRIC DEVICE FABRICATION METHOD**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 5

SAMUEL H DWORETSKY
AT & T CORP
PO BOX 4110
MIDDLETOWN NJ 07748-4110

COPY MAILED

AUG 2 9 2002

OFFICE OF PETITIONS

In re Application of
Banks, et al.
Application No. 10/096,918
Filed: March 13, 2002
Attorney Docket No. 1999-0683
Title: 1999-0683

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47, filed March 13, 2002, which is being treated as a petition under 37 CFR 1.47(a).

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

The above-identified application was filed on March 13, 2002 with the instant petition to accept the declaration executed by Diane Banks, Charles Douglas Blewett, and Donnie Henderson on behalf of themselves and for non-signing inventor David Millen.

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, *inter alia*,: (1) a declaration executed by Diane Banks, Charles Douglas Blewett, and Donnie Henderson, with the signature block for co-inventor David Millen left blank; and (2) a copy of a cover letter to Millen, transmitting the application papers.

The petition submitted by attorney Levy evidences that application papers were delivered to and signed by David Millen via U.S. Express Mail on January 26, 2002. Furthermore, the petition states that as of the date of the petition, no response from Millen had been received.

While petitioner did not include a statement of Millen's last known address in the petition, the last known address of Millen is assumed to be that stated in the declaration.

The declaration filed March 13, 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 authorized, Deposit Account No. 01-2745 has been charged the $130 petition fee.

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.

The application file is being returned to the Office of Initial Patent Examination for continuation of pre-examination processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-3801

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AUG 09 2005

OFFICE OF PETITIONS

In re Patent No. 6,895,199	:	DECISION ON
Sato, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: May 17, 2005	:	AND NOTICE OF INTENT
Application No. 10/097,016	:	TO ISSUE
Filed: March 14, 2002	:	CERTIFICATE OF
Attorney Docket No. 03500.016286	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed June 23, 2005. Patentee requests that the patent term adjustment indicated on the patent be corrected from zero (0) days to one hundred fifty (150) days.

The request is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred fifty (150)** days.

On May 17, 2005, the above-identified application matured into U.S. Patent No. 6,895,199. The instant request for reconsideration filed June 23, 2005 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of zero (0) days. Patentees state that they should not have been assessed applicant delay of seventy-four (74) days for the submission of a "Request for Issuance of Corrected Notice of Allowance and Request for Acknowledgment of Acceptability of Corrected Formal Drawings". In addition, patentees argue that they were erroneously assessed one hundred twenty (120) days of applicant delay for the submission of a Rule 312 amendment. According to patentees, they should have only been assessed applicant delay of thirty-six (36) days, not one hundred twenty (120) days.

A review of the record reveals that applicants filed an Amendment amending the title of the invention on November 3, 2003. On April 21, 2004, the Office mailed a non-final Office action, in which the Examiner requested a substitute specification including all the changes set forth in the previous amendment. Applicants filed the substitute specification on July 21, 2004, together with corrected formal drawings. The next Office action was the Notice of Allowance mailed on August 16, 2004. The Notice of Allowance contained errors in the amended title. In addition, the accompanying Notice of Allowability did not acknowledge the acceptability of the corrected formal drawings.

The "Request for Issuance of Corrected Notice of Allowance and Request for Acknowledgment of Acceptability of Corrected Formal Drawings" is not identified as one of the papers the filing of which the Director has specifically deemed not to be a failure to engage in reasonable efforts under 37 C.F.R. §1.704(c)(10).[1] Nevertheless, under the circumstances of this case, it is concluded that the filing of this paper is not a failure to engage under 37 C.F.R. §1.704(c)(10). Applicants' submission of this paper was the first opportunity for applicants to have the error corrected. Accordingly, the assessment of seventy-four (74) days of applicant delay with respect to this filing is not warranted.

In addition, patentees are correct in their assertion that they should not have been assessed applicant delay of one hundred twenty (120) days for the filing of the Rule 312 Amendment on November 15, 2004. A Response to Rule 312 Communication was mailed on December 20, 2004. Accordingly, pursuant to 37 C.F.R. 1.704(c)(10)(i), applicant delay should only have been assessed as thirty-six (36) days.

In view thereof, the correct determination of PTA at the time of issuance is **one hundred fifty (150)** days (191 (63 + 49 + 79) days of PTO delay, reduced by 41 (36 + 5) days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one hundred fifty (150)** days subject to any disclaimers.

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

Kerry Ferris for

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).

PALM INTRANET

Day : Tuesday
Date: 8/9/2005
Time: 09:21:14

PTA Calculations for Application: 10/097016

Application Filing Date:	03/14/2002	PTO Delay (PTO):	191
Issue Date of Patent:	05/17/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	199
Post-Issue Petitions:	0	Total PTA (days):	150
PTO Delay Adjustment:	158		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54	08/09/2005	ADJUSTMENT OF PTA CALCULATION BY PTO		36	
53	08/09/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	74		
52	08/09/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
48.5	04/27/2005	PTA 36 MONTHS			
48	05/17/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	63		44
47	03/23/2005	RECEIPT INTO PUBS			
46	03/22/2005	DISPATCH TO FDC			
45	03/22/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
44	11/15/2004	ISSUE FEE PAYMENT VERIFIED			
43	03/22/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
42	03/21/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
41	09/02/2004	MISCELLANEOUS INCOMING LETTER		0	43
40	02/17/2005	RECEIPT INTO PUBS			
39	01/28/2005	RECEIPT INTO PUBS			
38	08/20/2004	EXPORT TO INITIAL DATA CAPTURE			
37	12/27/2004	RECEIPT INTO PUBS			
36	12/20/2004	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
35	12/13/2004	RESPONSE TO AMENDMENT UNDER RULE 312			
34	11/15/2004	MISCELLANEOUS INCOMING LETTER		120	43
33	11/15/2004	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		0	36
32	09/02/2004	MISCELLANEOUS INCOMING LETTER		74	43
31	11/15/2004	WORKFLOW INCOMING AMENDMENT IFW			

30	11/15/2004	ISSUE FEE PAYMENT RECEIVED			
29	11/08/2004	RECEIPT INTO PUBS			
28	08/27/2004	RECEIPT INTO PUBS			
27	08/26/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
26	08/16/2004	MAIL NOTICE OF ALLOWANCE			
25	08/12/2004	ISSUE REVISION COMPLETED			
24	08/09/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
23	08/09/2004	NOTICE OF ALLOWABILITY			
22	07/30/2004	DATE FORWARDED TO EXAMINER			
21	07/21/2004	RESPONSE AFTER NON-FINAL ACTION			
20	07/21/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
19	07/21/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	04/21/2004	MAIL NON-FINAL REJECTION	49		13
17	02/09/2004	NON-FINAL REJECTION			
16	12/05/2003	DATE FORWARDED TO EXAMINER			
15	11/06/2003	SUPPLEMENTAL RESPONSE		3	13
14	12/05/2003	DATE FORWARDED TO EXAMINER			
13	11/03/2003	RESPONSE AFTER NON-FINAL ACTION		2	12
12	08/01/2003	MAIL NON-FINAL REJECTION	79		-1
11	07/28/2003	NON-FINAL REJECTION			
10	05/17/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	05/17/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
8	06/19/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	06/05/2002	APPLICATION DISPATCHED FROM OIPE			
6	06/04/2002	APPLICATION IS NOW COMPLETE			
5	05/17/2002	ADDITIONAL APPLICATION FILING FEES			
4	05/17/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	04/12/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	03/26/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/14/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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#3

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TECHNOLOGY CENTER 2100

Paper No. 3

NAIPO (NORTH AMERICA INTERNATIONAL
PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

In re Application of: Hou-Yuan LIN	)	
Application No. 10/097,066	)	
Filed: March 12, 2002	)	**DECISION ON REQUEST FOR**
For: DUAL BASIC INPUT/OUTPUT	)	**WITHDRAWAL AS ATTORNEY**
SYSTEM FOR A COMPUTER	)	

This is a decision on the Request To Withdraw from Representation filed August 18, 2003.

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

The request is **GRANTED**.

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

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

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7701 TELEGRAPH ROAD
ALEXANDRIA VA 22315-3860

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MAY 01 2007

OFFICE OF PETITIONS

In re Application of	:	
Cha et al.	:	
Application No.: 10/097089	:	DECISION ON
Filing or 371(c) Date: 03/14/2002	:	PETITION
Attorney Docket Number: COE-534	:	

This is a decision in response to the Petition under 37 CFR 1.181, filed February 27, 2007. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed July 5, 2005. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply on August 26, 2005; however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action, mailed September 23, 2005. The Advisory Action informed Applicant that the period for reply expires on (1) the mailing date of the 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."

A Notice of Abandonment was mailed March 8, 2006.

The present petition

Applicant files the present petition and asserts that "[a] formal response to the Notice of Abandonment was sent on March 16, 2006. No action was taken by the Patent Office on this response." Petition at p.1.

Applicable Law, Rules and MPEP

Applicant was required to file a complete and proper reply to the final Office action, mailed July 5, 2005. Applicant is advised the an application goes abandoned according to statute and Office rules. The statute, 35 U.S.C. § 133, Time for prosecuting application, states

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

This section of the statute is further clarified in Office rule, 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

This section explains that the reply must be both complete and proper as the condition of the application may require.

Analysis

Applicant filed a reply on August 26, 2005; however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action, mailed September 23, 2005. The Advisory Action informed Applicant that the period for reply expires on (1) the mailing date of the 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." The Amendment filed March 16, 2006 was untimely. The application was abandoned. Thereafter, a petition to revive the application was required.

Alternate Venue

Applicant is strongly urged to file a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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

By mail:	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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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

RICHARD S. MYERS, JR.
STITES & HARBISON, PLLC
324 CHURCH STREET, SUITE 1800
NASHVILLE, TN 37219

In re Application of	:	
Trevit Smith	:	
Serial No.: 09/943,990	:	DECISION ON
Filed: August 31, 2001	:	PETITON TO MAKE SPECIAL
For: Fitness Equipment	:	

This is in response to applicants' petition filed July 29, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. Therefore the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

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Ladas & Parry
26 West 61 Street
New York, NY 10023

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SEP 25 2006

OFFICE OF PETITIONS

In re Patent No. 6,843,159	:	
Issue Date: January 18, 2005	:	
Application No. 10/097,147	:	ON PETITION
Filed: March 13, 2002	:	
Attorney Docket No. U 013910-0	:	

This is a decision on the petition filed February 7, 2005, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is GRANTED.

The 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) 272-3205. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/097,174	03/12/2002	James A. Billmaier	50588/104	9525

7590 11/18/2008
DIGEO, INC C/O STOEL RIVES LLP
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

EXAMINER
SHEPARD, JUSTIN E

ART UNIT	PAPER NUMBER
2424	

MAIL DATE	DELIVERY MODE
11/18/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☑ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tom Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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JUN 29 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Marsh Fischmann & Breyfogle LLP
3151 South Vaughn Way, Suite 411
Aurora, CO 80014

In re Application of :
Samuel Lee Miller et al. : **DECISION ON PETITION**
Application No. 10/097,177 : **TO WITHDRAW THE**
Filed: March 12, 2002 : **HOLDING OF ABANDONMENT**
For: MICROELECTROMECHANICAL SYSTEM
WITH NON-COLLINEAR FORCE COMPENSATION

This is in reply applicants' Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on May 24, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated October 2, 2003 and a Notice to that effect was mailed on May 4, 2004.

Petitioner states that a response was filed on December 2, 2003 by mail. The copy of the response submitted with the petition includes a Certificate of mailing dated December 2, 2003 and a copy of the return postcard having a date stamp of December 8, 2003. The copy of the response also includes a petition for extension of time of one month, thereby extending the response period to December 2, 2003. Since the return postcard has a date stamp of December 8, 2003 which is later than the extended response period date of December 2, 2003 it cannot be used to show a timely filed response. Petitioner must therefore base the petition to withdraw the holding of abandonment on the Certificate of Mailing.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of mailing the *original* response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the *original*

response by mail on the date indicated on the certificate, by the person who signed the certificate.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/vdb: 6/24/04

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JUL 26 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Marsh Fischmann & Breyfogle LLP
3151 South Vaughn Way, Suite 411
Aurora, Co 80014

In re Application of
Samuel Lee Miller et al.
Application No. 10/097,177
Filed: March 12, 2002
For: MICROELECTROMECHANICAL SYSTEM WITH NON-COLLINEAR FORCE COMPENSATION

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on July 6, 2004.

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

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on December 2, 2003 . and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

KJD/vdb: 7/19/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/24/2010

Applicant	: Maxim Zalalutdinov	: DECISION ON REQUEST FOR
Patent Number	: 7654140	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/097,178	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **802** 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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Syngenta Crop Protection, Inc.
Patent and Trademark Department
410 Swing Road
Greensboro, NC 27409

COPY MAILED

MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Chen, et. al.	:	
Application No. 10/097,186	:	ON PETITION
Filed: March 13, 2002	:	
Attorney Docket No. 135-2008C	:	

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

The Office hereby acknowledges receipt of $1,500 for the petition to revive fee, a request for reconsideration, a Request for Continued Examination with $790 for the filing fee, and the statement of unintentional delay as required by 37 CFR 1.137(b).

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 1617, for processing the Request for Continued Examination under 37 CFR 1.114, and for review of the amendment filed with the instant petition.

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

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

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

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SEP 2 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Lai et al.	:	
Application No. 10/097,197	:	ON PETITION
Filed: March 12, 2002	:	
Attorney Docket No. MEDIN1400-2 (023161-2405)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 29, 2007, to revive the above-identified application. This is also a decision on the paper entitled "REQUEST TO WITHDRAW PETITION FOR REVIVAL OF APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)", filed August 20, 2008.

The petition under 1.137(b) is **DISMISSED AS MOOT,** in view of the request filed August 20, 2008, to withdraw the petition filed June 29, 2007 under 37 CFR 1.137(b).

The petition fee of $750, submitted on June 29, 2007, is being credited to petitioner's credit card account as authorized.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

ROBERT R. WILLIAMS
IBM CORPORATION - IP LAW DEPT. 917
3605 HIGHWAY 52 NORTH
ROCHESTER, MN 55901-7829

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JUL 2 2 2002

OFFICE OF PETITIONS

In re Application of	:
David Arnold Luick	: DECISION GRANTING
Application No. 10/097,199	: PETITION
Filed: March 13, 2002	:
Attorney Docket No. ROC920010297US1	:

This is a decision on the petition filed June 3, 2002, to accord the above-identified application a filing date of March 13, 2002, instead of March 12, 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 13, 2002.

A corrected filing receipt showing the filing date of March 13, 2002 accompanies this decision.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of March 13, 2002. Afterwards, the application will be forwarded to Technology Center Art Unit 2183 for examination in due course.

Telephone inquiries concerning this matter may be directed to Karen Creasy at (703) 305-8859.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 10

BAXTER HEALTHCARE CORPORATION
RENAL DIVISION
1 BAXTER PARKWAY
DF3-3E
DEERFIELD IL 60015

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MAR 1 8 2004
OFFICE OF PETITIONS

In re Application of
Hurst, et al.
Application No. 10/097,200
Filed: March 12, 2002
Attorney Docket No. DI-5915

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 7, 2003 (Certificate of Mailing dated April 1, 2003), to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of nonprovisional applications 09/607,058 (now Patent No. 6,361,843) and 08/934,924 (now Patent No. 6,083,587).

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on March 12, 2002, and was pending at the time of filing of the instant petition. Reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. §120 and 37 CFR 1.78 must be met. Accordingly, the examiner will, in due course, consider these benefit claims and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

This application is being forwarded to Technology Center 3700 for consideration of the Amendment filed April 7, 2003, including consideration by the Examiner of applicants' claim for the benefit of priority to the prior-filed nonprovisional applications.

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

Charles Pearson
Director
Office of Petitions

Enc: Corrected Filing Receipt (2 pages)

cc: Joseph A. Fuchs
Bell, Boyd & Lloyd LLP
P.O. Box 1135
Chicago, IL 60690-1135

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

Paper No. 7

MAY 07 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ROBIN BLECKER & DALEY
330 MADISON AVENUE
2ND FLOOR
NEW YORK NY 10017

In re Application of:
Chester KOLTON
Application No. 10/097,208
Filed: March 13, 2002
For: ARTICLE SURVEILLANCE UNIT AND ASSEMBLIES THEREWITH

DECISION ON PETITION

This is a response to the Petition to Withdraw Notice of Abandonment, filed March 10, 2004. The petition is being treated under 37 CFR 1.8(b) to withdraw the holding of abandonment.

*The petition is **granted**.*

This application became abandoned for failure to timely file a response to the Office action mailed July 15, 2003, which set a shortened statutory period of three (3) months to reply. A Notice of Abandonment was mailed on March 3, 2004.

Petitioner alleges to have timely filed a response to the Office action on July 30, 2003. To support this position, Petitioner has included with the instant petition a copy of the response bearing a proper certificate of facsimile transmission with a transmission date of July 30, 2003.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petitioner has met the requirements above. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be 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 consideration in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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COWAN LIEBOWITZ & LATMAN PC
JOHN J TORRENTE
1133 AVE OF THE AMERICAS
1133 AVE OF THE AMERICAS
NEW YORK NY 10036

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Chester Kolton et al. :
Application No. 10/097,208 : ON PETITION
Filed: March 13, 2002 :
Attorney Docket No.: 38-99

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

The petition is **GRANTED**.

This application became abandoned for March 18, 2005, for failure to timely pay the issue fee on or before March 17, 2005. Accordingly, a Notice of Abandonment was mailed April 25, 2005.

Receipt of the issue fee, publication fee, petition fee and formal drawings are acknowledged.

This application is being forwarded to the Publishing Division for review of the formal drawings shown as having been received in the PTO on May 11, 2004 and to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 101403

OPPENHEIMER WOLFF & DONNELLY LLP
P.O. Box 10356
Palo Alto, CA 94303

OCT 20 2003

In re Application of	)	
John Grebenkemper	)	
Application No. 10/097,215	)	DECISION ON REQUEST TO
Filed: March 11, 2002	)	WITHDRAW FROM RECORD
For: Attorney Docket No. 20206-145	)	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed September 24, 2003.

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

The request meets all the above requirements.

The request is APPROVED.

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

José G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Bill Streeter
Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE,
7TH FLOOR
SAN DIEGO CA 92122

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OFFICE OF PETITIONS

In re Patent No. 6,998,266	:	
Issue Date: February 14, 2006	:	
Application No. 10/097,245	:	NOTICE
Filed: March 15, 2002	:	
Attorney Docket No. 37991-0007	:	

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

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

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

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

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/17/2007

TO SPE OF : ART UNIT 2800 (2834)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,879,054

Attn: Julio Gonzalez

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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

***Ok to enter dependency change to claim 14 as requested in the C of C ?**

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

_____

_____

_____

_____

_____

SPE Art _____ 2834

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DIW 08-02

Paper No. 5

KENYON & KENYON
1500 K STREET, N.W., SUITE 700
WASHINGTON DC 20005

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AUG 0 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Kirk et al.	:	
Application No. 10/097,306	:	DECISION GRANTING
Filed: 15 March, 2002	:	PETITION
Attorney's Docket No. 11641/99	:	

This is a decision on the petition filed on 14 June, 2002, to accord the above-identified application a filing date of 15 March, 2002, with Figures 1B and 1C as a part of the original disclosure.

The petition is **GRANTED**.

On 15 March, 2002, the application was filed. On 16 April, 2002, however, Initial Patent Examination Division mailed a "Notice of to File Missing Parts of Nonprovisional Application" stating that the application had been accorded a filing date of 17 April, 2002, but that, *inter alia*, Figures 1B, 1C, and 21 described in the specification appeared to have been omitted from the application. A two (2)-month period for reply was set.

In response, on 14 June, 2002, the present petition was filed, accompanied by, *inter alia*, one (1) sheet of drawings containing Figures 1B and 1C. Petitioners argue that Figures 1B and 1C were filed with the other application papers deposited in the USPTO on 15 March, 2002. In support, petitioners supplied with the present petition, a postcard receipt bearing a USPTO Office date stamp of 15 March, 2002, and reflecting the above-identified application number, identifying the application by attorney docket number, the first named inventor's name, and the invention title, itemizing the filing of, *inter alia*, 15 sheets of drawings Petitioners request that the application, including the one (1) sheet of drawings containing Figures 1B and 1C, be accorded a filing date of 15 March, 2002.

A review of the record reveals that 14 sheets of drawings containing Figures 1A, 2A-C, 3A-C, 4A, 4B, and 5-20 are located among the application papers deposited on 15 March, 2002. However, the evidence is convincing that the application papers deposited on 15 March, 2002, included one (1) sheet of drawing containing Figures 1B and 1C as described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figures 1B and 1C as described in the specification, is entitled to a filing date of 15 March, 2002.

The "Notice" mailed on 30 May, 2002, is vacated to the extent that it stated that Figures 1B and 1C described in the specification appeared to have been omitted from the application.

Petitioners also state that references to Figure 21 will be removed by a preliminary amendment submitted herwith.

As the reference to Figure 21 was due to applicants' filing error, as the notice correctly stated that Figure 21 appeared to be omitted. Therefore, the petition fee will not be refunded.

The application will be processed and examined using the substitute drawings filed on 14 June, 2002,

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 15 March, 2002, using the application papers filed on 17 April, 2002, and the 17 sheets of drawings filed on 14 June, 2002.

Telephone inquires should be directed to the undersigned at 703 308-6918.

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

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Paper No. 052404

Kent A. Fischmann
MARSH FISCHMANN & BREYFOGLE LLP
3151 South Vaughn Way, Suite 411
Aurora, CO 80014

JUN 8 2004

In re Application of:
MILLER *et al.*
Serial No.: 10/097,345
Filed: March 14, 2002
Attorney Docket No.: **50060-00079**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed March 19, 2004, under 37 C.F.R. § 1.181, to withdraw the holding of abandonment in the above-identified application. No fee is required.

The petition is **GRANTED.**

A non-final Office action was mailed on September 16, 2003. Although no Notice of Abandonment has been mailed, the application would have gone abandoned by operation of law at midnight, on March 16, 2004.

Petitioner asserts that the Office action mailed on September 16, 2003, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received. A copy of the file docket where the Office action would have been entered was also included with the petition.

A review of the written record indicates that the Office inadvertently mailed the Office action to an incorrect correspondence address, 3451 South Vaughn Way. Accordingly, it cannot be presumed that the Office reached practitioner at the correspondence address of record. Therefore, the application was not abandoned in fact.

For the above stated reason, the petition is granted.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Office action. The shortened statutory period for response set therein will be reset to run from the date the Office action is re-mailed. Extensions of time are available under 37 C.F.R. § 1.136.

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

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

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Paper No. 121404

SILICON VALLEY PATENT GROUP LLP
2350 Mission College Boulevard
Suite 360
Santa Clara CA 95054

FEB 1 2005

In re Application of:
Richard J. Nathan
Serial No.: 10/097,363
Filed: March 12, 2002
Attorney Docket No.: **JIG005-1P US**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed October 26, 2004.

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

The request meets all the above stated requirements. The request was signed by Omkar Suryadevara.

The request is **APPROVED**.

It is noted that the application is now abandoned. There are no attorneys of record at this time.

All future communications from the Office will be directed to the JigSaw tek, Inc, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Hien H Phan at (571) 272-1606.

Hien H. Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

HHP/nmc

cc: JigSaw tek, Inc.
90 Great Oaks Blvd, Suite 206
San Jose, CA 95119

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
10/097,363	03/12/2002	Richard J. Nathan	JIG005-1P US

CONFIRMATION NO. 1976

OC000000014918164

34036
SILICON VALLEY PATENT GROUP LLP
2350 MISSION COLLEGE BOULEVARD
SUITE 360
SANTA CLARA, CA 95054

Date Mailed: 01/10/2005

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/27/2004.

- 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.

Nova M Chapman

NOVA M CHAPMAN
3928 (571) 272-2782

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James C. Wray
Suite 300
1493 Chain Bridge Road
McLean, VA 22101

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OFFICE OF PETITIONS

In re Application of	:	
Hank C.K. Wuh, et al.	:	
Application No. 10/097,423	:	NOTICE
Filed: March 15, 2002	:	
Attorney Docket No. DAILY WELLNESS		

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 1654 for further prosecution.

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

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Paper No. 6

Wallenstein & Wagner, Ltd.
53rd Floor
311 S. Wacker Drive
Chicago, Illinois 60606-6630

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OCT 3 1 2002

OFFICE OF PETITIONS

In re Application of
Quintanilla, Jones, Reuter, Bertha, and Anvar
Application No. 10/097,436
Filed: October 17, 2001
Attorney Docket No. HT-5707
For: INTERNET BASED THERAPY MANAGEMENT SYSTEM

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 9, 2002.

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this reissue application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on April 14. 2002, without an executed oath or declaration. A "Notice to File Missing Parts of Nonprovisional Application"(the "Notice") was mailed on April 9, 2002, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration and payment of outstanding filing fees. The Notice set forth an extendable period for reply of two months from its mailing date. In response, petitioner filed the instant petition with a request for an extension of time within the fourth month, a declaration, and remitted the surcharge of $130.00.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks items (1) and (2) as set forth above.

As to item (1), petitioner has not satisfactorily established that inventor Anvar is not able to be reached to join the prosecution of the application as there is no indication that petitioner made a diligent effort to provide the nonsigning inventor with a complete copy of the application papers. Petitioner only states that petitioner sent a copy of the declaration to inventor Jun at the last address petitioner obtained from inventor Anvar's last employer. According to petitioner, the package containing the declaration was returned as 'undeliverable.' From that exchange, petitioner assumed, and asks the Office to assume, that inventor

Anvar cannot be reached. This conclusion is premature given the facts presented by petitioner. Petitioner has not demonstrated that diligent efforts were made to locate the nonsigning inventor. Section 409.03(d) of the MPEP requires that a showing of diligence be made in petitioner's efforts to locate a non-signing inventor before the unavailability of the nonsigning inventor will be assumed. The requisite showing of diligence is not demonstrated by the instant petition. There is no indication that petitioner attempted to search any available databases, i.e. National Registries, telephone books, the Internet, to locate the non-signing inventors. Any renewed petition must be accompanied by evidence of petitioner's additional efforts to locate the non-signing inventor before inventor Anvar will be deemed 'unavailable.'

As to item (2), petitioner is advised that the declaration, as filed, is not proper because it does not list the citizenship for inventor Anvar. The citizenship of all named inventors must be provided on the declaration in accordance with 37 CFR 1.63. Petitioner must file a declaration that provides the citizenship of inventor Anvar, regardless of whether or not inventor Anvar signature is obtained.

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, Virginia

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Michael Fedrick, Esq.
Corporate Counsel
Baxter Healthcare Corporation
One Baxter Way
West Lake Village CA 91362

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OFFICE OF PETITIONS

In re Application of	:
Quintanilla, Jones, Reuter, Bertha, and Anvar	:
Application No.: 10/097,436	: DECISION NOTING JOINDER
Filed: October 17, 2001	:
Attorney Docket No: HT-5707	:
FOR: INTERNET BASED THERAPY MANAGEMENT	:
SYSTEM	:

This is in response to the correspondence filed January 8, 2003 (certificate of mailing dated December 31, 2002), in response to the dismissal of a petition filed under 37 CFR 1.47(a).

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Manual of Patent Examining Procedure ("MPEP"), § 409.03(j) provides that "[i]n the event the previously nonsigning inventor decides to join the application by filing an executed oath or declaration complying with 37 CFR 1.63, the oath or declaration will be placed in the application file."

Accordingly, the declaration for inventor Anvar has been entered and made of record.

The address as cited on the instant petition differs from the address of record. Although a courtesy copy of the decision is being mailed to the address as cited on the instant petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
James P. Muraff
Wallenstein & Wagner, Ltd.
311 South Wacker Drive, 53rd Floor
Chicago, IL 60606-6622

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLIED MATERIALS, INC.
P.O. BOX 450A
SANTA CLARA CA 95052

COPY MAILED

DEC 0 8 2006

OFFICE OF PETITIONS

In re Application of Evgeni Levin et al Application No. 10/097,442 Filed: March 12, 2002 Attorney Docket No. 3008USA/PDC/WF/OR	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of October 4, 2005, is accepted as having been unintentionally delayed.

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

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

This matter is being referred to Technology Center AU 2624.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

CC:
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

UNITED STATES 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

ATTN: LEGAL-MANUFACTURING
KINETIC CONCEPTS, INC.
P.O. BOX 659508
SAN ANTONIO, TX 78265-9508

COPY MAILED

NOV 16 2004

OFFICE OF PETITIONS

In re Application of	:	
Bartlett, et al.	:	
Application No. 10/097,459	:	ON PETITION
Filed: March 12, 2002	:	
Attorney Docket No. TRI.283D.US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed June 13, 2003. Accordingly, this application became abandoned on September 14, 2003. A Notice of Abandonment was mailed on February 2, 2004. The required reply, in the form of an amendment, was received on May 14, 2004

The file shall remain in the Office of Petitions for review of the petition under 37 CFR 1.78, filed May 14, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ATTN: LEGAL-MANUFACTURING
KINETIC CONCEPTS, INC.
P.O. BOX 659508
SAN ANTONIO TX 78265-9508

COPY MAILED

DEC 1 0 2004

OFFICE OF PETITIONS

In re Application of	:
Bartlett, et al.	:
Application No. 10/097,459	: DECISION ON PETITION
Filed: March 12, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. TRI.283D.US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 14, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on March 12, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been

included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

This application is being forwarded to Technology Center Art Unit 3673 for appropriate action on the amendment filed May 14, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications and for review of the "Petition Under 37 CFR 1.48," filed May 14, 2004.

Any inquiries concerning this decision may be directed to Petitions Attorney Edward Tannouse at (571)272-3228.

Brian Hearn, for

Charles A. Pearson
Director
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 9, 2009

TO SPE OF : ART UNIT 3673 - Peter Cuomo

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/097,459 Patent No.: 7,418,751 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)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should correction of inventorship filed under 1.48 be approved?

Please see REM filed 03-27-2009 in IFW appl.

Certificates of Correction Branch

(571)272-0483

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
By mtrettel at 9:56 am, Nov 02, 2009

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,672,853	2004-01-06	10/097,475	2002-03-13	506739

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	/Lawrence E. Crowe/	Date (YYYY-MM-DD)	2008-02-27
Name	Lawrence E. Crowe	Registration Number	35110

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. 6672853
Issue Date: January 6,2004
Application No. 10097475
Filed: March 13,2002
Attorney Docket No. 20010002.US

:

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

:

This is a decision on the electronic petition, filed February 27,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 27,2008 . 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

MAILED

JUL 27 2007

TECHNOLOGY CENTER 2100

Frederick E. Cooperrider
McGinn Intellectual Property Law Group, PLLC
8321 Old Courthouse Rd., Suite 200
Vienna, VA 22182-3817

In re Application of: Jann, et al.
Application No. 10/097,503
Filed: March 15, 2003
For: METHOD AND APPARATUS FOR LOW MEMORY RELOCATION FOR DYNAMIC MEMORY RECONFIGURATION

DECISION ON PETITION TO WITHDRAW THE FINALITY OF AN OFFICE ACTION

This paper provides the decision on the petition filed January 9, 2007 under 37 C.F.R. § 1.181 to forward the original reply brief (filed on 07/03/2006) or the revised reply brief (filed on October 13, 2006) be forwarded to the Board of Appeals for purpose of consideration during appeal.

The Petition is **GRANTED.**

Applicable Prosecution History

February 13, 2006	Applicant filed appeal brief.
May 02, 2006	Examiner's answer to appeal brief issued.
July 03, 2006	Applicant filed a Reply brief, including Reference to Tannenbaum.
September 22, 2006	Examiner denied entry of Reply brief, and issued a communication to applicant, informing applicant why the reply brief would not be entered (introduction of new evidence, and other informalities).
October 13, 2006	Applicant filed a revised reply brief, in response to examiner's communication of September 22, 2006.
December 27, 2006	Examiner denied entry of Reply brief, and issued a communication to applicant, informing applicant why the reply brief would not be

entered (Two-month time period since the mailing of examiner's answer had expired, without an extension of time under 1.136(b)).

January 9, 2007 — Instant Petition filed, requesting the original reply brief (filed on 07/03/2006) or the revised reply brief (filed on October 13, 2006) be forwarded to the Board of Appeals for purpose of consideration during appeal.

RELIEF REQUESTED

The Applicant respectfully that the original reply brief (filed on 07/03/2006) or the revised reply brief (filed on October 13, 2006) be forwarded to the Board of Appeals for purpose of consideration during appeal.

OPINION

Petitioner asserts that the Tannenbaum pages were necessitated to rebut examiner's argument that the appellants coined the acronym "VMM", for the first time in Examiners Answer.

ANALYSIS

MPEP 1208 states in part:

1208 [R-3] Reply Briefs and Examiner's Responses to Reply Brief<
**>37 CFR 41.41. Reply brief.

(a) (1) Appellant may file a reply brief to an examiner 's answer within two months from the date of the examiner 's answer.

(2) A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for amendments, affidavits or other evidence filed after the date of filing the appeal.

(b) A reply brief that is not in compliance with paragraph (a) of this section will not be considered. Appellant will be notified if a reply brief is not in compliance with paragraph (a) of this section.

(c) Extensions of time under § 1.136 (a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136 (b) of this title for extensions of time to reply for patent applications and § 1.550 (c) of this title for extensions of time to reply for ex parte reexamination proceedings.. ....In response to the following, however, appellant is required to file either a reply brief to maintain the appeal or a reply under 37 CFR 1.111 to reopen prosecution:

(A) An examiner's answer that contains a new ground of rejection pursuant to 37

CFR 41.39 (see MPEP § 1207.03); or

(B) A supplemental examiner's answer responding to a remand by the Board for further consideration of a rejection pursuant to 37 CFR 41.50(a) (see MPEP § 1207.05). Such a supplemental examiner's answer may contain a new ground of rejection (also see MPEP § 1207.03).

If appellant requests that the appeal be maintained in response to a new ground of rejection made in an examiner's answer or a supplemental examiner's answer, the appellant must file a reply brief to address each new grounds of rejection set forth in the answer in compliance with 37 CFR 41.37(c)(1)(vii) within two months from the mailing of the answer. The reply brief should include the following items, with each item starting on a separate page, so as to follow the other requirements of a brief as set forth in 37 CFR 41.37(c):

(A) Identification page setting forth the appellant's name(s), the application number, the filing date of the application, the title of the invention, the name of the examiner, the art unit of the examiner and the title of the paper (i.e., Reply Brief);

(B) Status of claims page(s);

(C) Grounds of rejection to be reviewed on appeal page(s); and

(D) Argument page(s).

In the communication mailed by the examiner on September 22, 2006, examiner refused entry of the Reply Brief filed on July 3, 2006 for the following reasons:

1. The reply brief included a new affidavit or other evidence (the Tannenbaum reference and the discussion thereof.

2. The reply brief failed to include the following items, according to MPEP 1208, with each item starting on a separate page, so as to follow the other requirements of a brief as set forth in 37 CFR 41.37(c):

(A) Identification page setting forth the appellant's name(s), the application number, the filing date of the application,
the title of the invention, the name of the examiner, the art unit of the examiner and the title of the paper (i.e., Reply Brief);

(B) Status of claims page(s);

(C) Grounds of rejection to be reviewed on appeal page(s); and

(D) Argument page(s)."

However, in the same communication the examiner while maintaining that terms such as "virtual memory manager" and "VMM" were improperly ascribed to the Wang et al. reference, "concedes herewith that applicant did not coin the acronym "VMM", as previously suggested".

As per item 1 above (introduction of the Tannenbaum reference), appellant introduced the Tannenbaum pages as a "supporting document" in the reply brief filed July 3, 2006, for

appellants rebuttal to examiner's new argument that the appellants coined the acronym "VMM", which argument was presented by the examiner for the first time in the examiners answer. Hence appellant did not introduce Tannenbaum pages as "new evidence" but as a supporting document to reinforce their rebuttal. Further, it is noted that examiner concedes in his communication, mailed on September 22, 2006, that Appellants did not coin the acronym "VMM".

As per item 2 above, the items that examiner requires in the reply brief are only required "if appellant requests that the appeal be maintained in response to a new ground of rejection made in an examiner's answer or a supplemental examiner's answer". In the instant application, there were no new grounds of rejection put forth by the examiner, and hence this requirement is moot.

For the above stated reasons, the petition is **GRANTED.**

The reply brief filed on July 3, 2006, is, therefore found to be proper, and hence will be entered and made of record.

The communication mailed on September 22, 2006 is hereby vacated.

The reply brief filed on October 13, 2006 is found to be immaterial and will not be entered.

Consequently, the communication mailed by the examiner on December 27, 2006 is also vacated.

The application will be forwarded to the Board of Patent Appeals and Interferences, after entry of the reply brief filed on July 3, 2006.

Mano Padmanabhan

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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141-07 20TH AVENUE
WORLD PLAZA, SUITE 604
WHITESTONE NY 11357

MAILED

JUL 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Nai-Kong V. Cheung	:	
Application No. 10/097,558	:	DECISION GRANTING PETITION
Filed: March 8, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 638-B-US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 27, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 5, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1642 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

---

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

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CHAN, PLLC
141-07 20TH AVENUE
WORLD PLAZA, SUITE 604
WHITESTONE NY 11357

MAILED

MAY 11 2010

OFFICE OF PETITIONS

Applicant:	:	ON PETITIONS
Cheung	:	under 37 CFR 1.705
	:	and
Application No. 10/097,558	:	ON REQUEST FOR RECONSIDERATION
Filed: March 8, 2002	:	OF PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
638-B-US	:	
	:	

This is a decision on the timely petition filed on December 21, 2009. The petition filed pursuant to 37 CFR 1.705(b) requests that the patent term adjustment at the time of the allowance be adjusted to 787 days.

The petition to correct the patent term adjustment indicated on the notice of allowance is **GRANTED IN PART**. The amount of patent term adjustment at the time of the notice of allowance is 515 days.

The applicant agrees with the Office delay of 474 days pursuant to 37 CFR 1.702(a)(1),127 days pursuant to 37 CFR 1.702(a)(2), and 218 days pursuant to 37 CFR 1.702(a)(2, 819 days. Applicants also do not dispute the (4 +2= 6) days pursuant to 37 CFR 1.704(c)(8) or the (25 + 1 days) pursuant to t37 CFR 1.704(b). Accordingly, applicants do not dispute 32 days of applicant delay.

Applicants do dispute the 112 days of applicant delay under 1.704(c)(7). Applicants assert that the paper copy and sequence filed on January 28, 2005 were compliant. Applicant filed a

response on August 15, 2005 with evidence to support their contention that the sequence submission was compliant and such notice of non-compliant was errant.

Specifically on January 3, 2005, the USPTO mailed a notice of non-compliant sequence listing asserting that not all sequence listings that require sequence ID numbers have sequence ID numbers. See claim 6. Applicant responded on January 28, 2005 by adding sequence listings 29-34 to comply with the requirement of the Office. On July 19th the USPTO mailed a second notice of non-compliant sequence listings to applicants and asserted that the sequence listings in the computer readable form had only 14 sequences while the paper version contained 34 sequences. On August 15, 2005 applicant filed a response asserting that the paper and computer readable form were identical. On November 4, 2004, the Office determined that in fact the responses were not identical and that applicant sequence listing errant. USPTO identified that applicant had defined a sequence entry #213 as "synthetic" which is not acceptable. Applicant must use the words "artificial", "unknown", or "genus/species" in the identification. On November 21, 2005, applicant resubmitted the computer readable sequence as well as the paper copy in a version that was totally compliant.

Pursuant to 37 CFR 1.704(c)(7), submission of a reply having an omission, shall be reduced by the number of days, if any, beginning on he day after the filing of the original reply and ending on the date of correcting the omission was filed.

In this particular application, the reduction began the day after the first non-compliant submission, January 29, 2005, and ending on the date of the compliant submission on November 21, 2005. The Office notes that the errant sequence listing "synthetic" occurred from the original submission of January 28, 2005 and ended on the submission on November 21, 2005, a reduction of 297 days. The USPTO treated the reductions occurring during this period as 112 days under 1.704(c)(7) and 25 days under 1.704(c)(8), however, because these days overlap with the 297 days reduction, Office will manual assess 160 days of additional reduction, for a reduction of 297 days during the chronological sequence of events (297-137 (112+25)=160). Accordingly, the PTA at the time of the mailing of the notice of allowance is 515 days.

The Office notes that the determination at the time of the notice of allowance does not include any additional PTA pursuant to 37 CFR 1.702(a)(4) or 1.702(b). Moreover, the PTA determination at the time of the notice of allowance does not include any reductions to PTA pursuant to 37 CFR 1.704(c)(10). The office will make these determinations when the patent is about to issue and the determination will be provided in the issue notification letter that is provided to applicants approximately three weeks prior to issue date.

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

Telephone inquiries specific to this matter should be directed to Maria Nuzzolillo, (571) 272-8150.

/Kery Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

Day : Monday
Date: 5/10/2010

PALM INTRANET

Time: 12:29:41

PTA Calculations for Application: 10/097558			
Application Filing Date:	03/08/2002	PTO Delay (PTO):	819
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	144
Post-Issue Petitions:	0	Total PTA (days):	515
PTO Delay Adjustment:	-160		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
154	05/10/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		160	
139	09/23/2009	MAIL NOTICE OF ALLOWANCE			
138	09/22/2009	ISSUE REVISION COMPLETED			
137	09/15/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
136	09/11/2009	DOCUMENT VERIFICATION			
135	09/14/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
134	09/14/2009	NOTICE OF ALLOWABILITY			
131	07/27/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
130	07/27/2009	REFERENCE CAPTURE ON IDS			
129	07/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
128	08/06/2009	DATE FORWARDED TO EXAMINER			
127	07/27/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
126	08/06/2009	DISPOSAL FOR A RCE / CPA / R129			
125	07/28/2009	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
124	07/28/2009	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
123	07/27/2009	PETITION ENTERED			
122	07/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
121	07/27/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
120	01/30/2009	FINISHED INITIAL DATA CAPTURE			
119	12/04/2008	PETITION ENTERED			

118	01/13/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
117	01/05/2009	ISSUE FEE PAYMENT VERIFIED			
116	01/05/2009	ISSUE FEE PAYMENT RECEIVED			
115	11/14/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
114	11/03/2008	EXPORT TO INITIAL DATA CAPTURE			
113	10/30/2008	MAIL EXAMINER'S AMENDMENT			
112	10/30/2008	MAIL NOTICE OF ALLOWANCE			
112	10/30/2008	MAIL NOTICE OF ALLOWANCE			
111	10/29/2008	ISSUE REVISION COMPLETED			
111	10/29/2008	ISSUE REVISION COMPLETED			
110	10/29/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
110	10/29/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
109	10/29/2008	CASE DOCKETED TO EXAMINER IN GAU			
109	10/29/2008	CASE DOCKETED TO EXAMINER IN GAU			
108	10/29/2008	DOCUMENT VERIFICATION			
108	10/29/2008	DOCUMENT VERIFICATION			
107	10/27/2008	EXAMINER'S AMENDMENT COMMUNICATION			
107	10/27/2008	EXAMINER'S AMENDMENT COMMUNICATION			
106	10/27/2008	NOTICE OF ALLOWABILITY			
106	10/27/2008	NOTICE OF ALLOWABILITY			
103	07/18/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
98	08/19/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
97	07/18/2008	REFERENCE CAPTURE ON IDS			
96	07/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
95	08/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
94	08/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		1	92
93	09/08/2008	DATE FORWARDED TO EXAMINER			
92	08/18/2008	RESPONSE AFTER NON-FINAL ACTION		2	86
91	08/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
89	07/31/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			

88	07/29/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
87	07/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
86	05/16/2008	MAIL NON-FINAL REJECTION			
85	05/12/2008	NON-FINAL REJECTION			
83	03/01/2008	DATE FORWARDED TO EXAMINER			
82	02/25/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
81	03/01/2008	DATE FORWARDED TO EXAMINER			
80	02/25/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
79	03/01/2008	DISPOSAL FOR A RCE / CPA / R129			
78	02/25/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
77	12/27/2007	MAIL FINAL REJECTION (PTOL - 326)	218		72
76	12/26/2007	FINAL REJECTION			
75	08/14/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
73	12/05/2007	DATE FORWARDED TO EXAMINER			
72	01/23/2007	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES			
71	01/29/2007	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
70	01/08/2007	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)			
69	01/03/2007	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
68	11/01/2006	MISCELLANEOUS INCOMING LETTER			
67	10/30/2006	NEW OR ADDITIONAL DRAWING FILED			
66	11/14/2006	DATE FORWARDED TO EXAMINER			
65	10/30/2006	RESPONSE AFTER NON-FINAL ACTION		4	62
64	11/06/2006	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
63.7	08/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	08/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	07/26/2006	MAIL NON-FINAL REJECTION	127		59
61	07/24/2006	NON-FINAL REJECTION			
60	07/24/2006	DATE FORWARDED TO EXAMINER			

59	11/21/2005	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES			
58	06/03/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	09/09/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	10/03/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
55	12/29/2005	CORRESPONDENCE ADDRESS CHANGE			
54	11/29/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
53	11/04/2005	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)			
52	11/02/2005	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
51.7	09/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		25	49
51	09/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	09/02/2005	DATE FORWARDED TO EXAMINER			
49	08/15/2005	RESPONSE AFTER NON-FINAL ACTION		112	45
48	08/23/2005	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
47	07/19/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
46	05/11/2005	DATE FORWARDED TO EXAMINER			
45.1	04/25/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
45	04/25/2005	RESPONSE AFTER NON-FINAL ACTION			
44	04/20/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
43	04/19/2005	MISCELLANEOUS ACTION WITH SSP			
42	03/02/2005	DATE FORWARDED TO EXAMINER			
41	01/28/2005	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES			
38	02/15/2005	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
37	01/03/2005	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)			
36	12/30/2004	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
35	10/29/2004	DATE FORWARDED TO EXAMINER			

34	10/22/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
33	10/22/2004	WORKFLOW INCOMING AMENDMENT IFW			
32	09/22/2004	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
31	09/22/2004	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
30	08/24/2004	MAIL RESTRICTION REQUIREMENT	474		-1
29	08/23/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
28	05/28/2004	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
27	11/07/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
26	07/15/2002	CRF DOES NOT MATCH APPLICATION SPECIFICATION -- APPLICANT MUST CORRECT			
25	05/24/2004	PRELIMINARY AMENDMENT			
24	05/24/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
23	05/19/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
22	05/19/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
21	05/24/2004	WORKFLOW INCOMING AMENDMENT IFW			
20	05/19/2004	WORKFLOW INCOMING AMENDMENT IFW			
19	03/12/2003	REQUEST FOR REFUND			
18	03/12/2003	REQUEST FOR REFUND			
17	03/12/2003	REQUEST FOR REFUND			
16.7	10/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	10/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	10/14/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14.7	06/03/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	06/03/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
12	03/08/2002	PRELIMINARY AMENDMENT			
11	08/05/2002	CASE DOCKETED TO EXAMINER IN GAU			
10	07/18/2002	APPLICATION DISPATCHED FROM OIPE			

9	07/17/2002	APPLICATION IS NOW COMPLETE			
8	06/18/2002	ADDITIONAL APPLICATION FILING FEES			
7	06/18/2002	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
6	06/18/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	04/13/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
3	04/12/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	03/28/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/08/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

KLAUS J. BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE PA 15668

In re Application of
Manfred Burkhard Helm et al.
Application No. 10/097,581
Filed: March 15, 2002
Attorney Docket No. TD-152

ON PETITION

This is a decision on the petition filed September 8, 2005, under 37 CFR 1.181, to withdraw the holding of abandonment.

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

This application became abandoned March 15, 2005 for failure to timely pay the issue fee in response to the Notice of Allowance mailed December 13, 2004. Accordingly, a Notice of Abandonment was mailed July 25, 2005.

Petitioner argues that the Notices mailed December 13, 2004 and July 25, 2005 were mailed to the prior attorneys of record even though a revocation and power of attorney were filed August 19, 2004. Petitioners provide a copy of the revocation and power of attorney as well as a postcard receipt date stamped by the USPTO on August 19, 2004, as proof of filing prior to the date the Notices were mailed and prior to the abandonment.

A review of the file confirms that a power of attorney, statement under 37 CFR 3.73(b) and address change were indeed filed on August 19, 2004 but that the USPTO records were not updated. The Notice of Allowance, Notice of Allowability 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 back to Technology Center 3637 for a re-mailing of the Notices mailed December 13, 2004.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Bruno Landais	: DECISION ON REQUEST FOR
Patent Number	: 7586875	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/097,631	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1895** 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. 5

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APR 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Cecil Morin, Clifford Ronden, :
Brian Reimer and :
Stanley Lachmansingh :
Application No. 10/097,644 :
Filed: March 15, 2002 :
Attorney Docket No. 85127-102 :
Title: EXTRUDED PERMANENT FORM-WORK:
FOR CONCRETE :

DECISION REFUSING STATUS
UNDER 37 CFR §1.47(b)

This is in response to the papers filed October 15, 2002, which are being treated as a petition under 37 CFR §1.47(b). Pursuant to the accompanying authorization to charge any required fees to Deposit Account No. 01-0310, the required petition fee of $65 for consideration under § 1.47(b) has been charged.

The petition under 37 CFR § 1.47(b) is **DISMISSED**.

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

The above-identified application was filed on May 15, 2002, without an executed oath or declaration, missing the statutory basic filing fee and with additional claim fees due. Cecil Morin, Clifford Ronden, Brian Reimer and Stanley Lachmansingh were named as joint inventors. Accordingly, on April 15, 2002, applicants were mailed a "Notice to File Missing Parts of Application," requiring the missing items, including an executed oath or declaration with a surcharge for its late filing. This Notice set a period for reply of two months, with extensions of time obtainable under §1.136(a).

Petitioner filed the instant response, made timely by an accompanying petition for extension for response within the fourth month (and fee). The response included:

- a statutory declaration by attorney Kevin Ozubko, setting forth the facts relied on to conclude that the inventors are unavailable to join in the application;
- an unexecuted assignment of the invention from the inventors to Wood Composite Technologies, Inc., (WCT);
- e-mail communications between parties regarding the lack of signature on the assignments;

- the assignment of the WCT's rights in the invention to Octaform Systems Inc (Octaform), rule 47(b) applicant;
- the settlement agreement between Concrete Forming Systems, Inc., (CFS), Octaform and WCT, including Schedule "C" transferring intellectual property;
- results and data relative to a demographic search for inventor Ronden in July 2002; and
- copies of multiple communications sent to and/or about the inventors requesting signature on the assignment and declaration for patent.

37 CFR § 1.47(b) provides that:

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

Accordingly, a grantable petition under 37 CFR § 1.47(b) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175; (2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; (6) that rule 47 applicant make out a *prima facie* case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage. See MPEP §409.03(g).

See 35 U.S.C. §118; 37 C.F.R. §1.47; §§409.03 and 605 of the *Manual of Patent Examining Procedure* (8th ed)(Rev. 1, Aug. 2001)(MPEP).

The instant petition lacks requirements (1), (2), (3), (5), (6) and (7):

As to requirements (1) and (2),

Rule 47 applicant has only submitted a copy of the declaration as presented to the joint inventors. This declaration is not executed by anyone. A declaration for patent offered pursuant to § 1.47(b) must be properly executed by the rule 47(b) applicant on behalf of the non-signing inventors[1].

The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. 37 CFR 1.64(b) specifically provides that

> If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, 1.47, or § 1.67), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor is required to state.

Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. Staeger v. Commissioner, 189 USPQ 272 (D.D.C. 1976), In re Striker, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the non-signing inventor. See MPEP 409.03(b).

It is further noted that any declaration submitted should correctly identify inventor Ronden as "Ronden" or "Rondin," as appropriate.

As to requirement (3),

Petitioner submits the statutory declaration of attorney

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[1] Whereas, a declaration submitted pursuant to § 1.47(a) must be executed by the available joint inventors on behalf of themselves and on behalf of the non-signing joint inventors.

Kevin Ozubko with supporting exhibits to show the unavailability of all of the inventors to join in the application. The declaration bases the unavailability of joint inventors Morin and Ronden on their refusal to join in the application. The declaration bases the unavailability of joint inventors Lachmansingh and Reimer on the inability to reach or locate the inventors to join in the application.

Before a refusal can be alleged, applicants must demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The declaration and supporting documentation only supports a conclusion that the assignment and declaration for this application, and Canadian Patent No. 2,298,319, were presented to inventors Morin and Ronden. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956). The presentation of Canadian Patent No. 2,298,319 to the inventors does not satisfy the requirement that the application papers that are the subject of the instant declaration for patent be presented to the inventors.

Additionally, on the instant evidence, a conclusion that inventor Lachmansingh's failure to respond constitutes refusal cannot be inferred. Even if inventor Lachmansingh had been sent all of the application papers, the evidence does not support a conclusion that inventor Lachmansingh received the letters sent by facsimile in care of Ron Singh. There is no acknowledgment of receipt by inventor Lachmansingh. As the facsimile machine presumably is not solely in the control of inventor Lachmansingh, the confirmation does not serve to show that inventor Lachmansingh received the communications.

The proof that inventors Lachmansingh and Reimer cannot be reached or located to join in the application is lacking. Petitioner states that demographic and Internet searches for these inventors have been unsuccessful. However, this statement is not supported with copies of the search results.

Given the foregoing deficiencies, on renewed petition, applicants must establish that the entire application package, including specification, claims and drawings, were presented to the alleged refusing inventors, and that they subsequently refused to sign. If they have not already been sent, a copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the inventor is represented by counsel, to the address of the non-signing inventor's attorney, or otherwise, presented to inventors Morin and Ronden. Documentary evidence, including copies of the transmittal cover letters and return mail receipts, should be made part of the record.

Moreover, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Furthermore, the search results showing diligent effort to locate inventors Lachmansingh and Reimer should be made a part of the record.

As to requirement (5),

The papers filed October 15, 2002 do not include a paper entitled "petition under § 1.47," or any other paper, containing statements of the last known addresses of the non-signing inventors. On renewed petition, petitioner should include a paper setting forth the last known addresses of the non-signing inventors[2].

As to requirement (6),

Rule 47(b) applicant must prove that, as of the date the application was deposited in the United States Patent and Trademark Office, (a) the invention had been assigned to the applicant, or (b) the inventor had agreed in writing to assign the invention to the applicant, or (c) the applicant otherwise had sufficient proprietary interest in the subject matter to justify filing of the application.

The unexecuted assignments submitted do not show that the inventors have assigned the invention to rule 47(b) applicant, by virtue of WCT's assignment of their rights to rule 47(b) applicant. If the inventors agreed in writing to assign the invention described in this application and deposited pursuant to 37 C.F.R. §1.47(b), a copy of that agreement should be submitted (i.e., by virtue of an employment agreement with WCT and a showing that this invention was covered by that agreement). If the invention has not been assigned, or if there is no written agreement to assign, the rule 47 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 the authority in the jurisdiction award title of the invention to the rule 47 applicant. The facts in support of any conclusion that a court would award title to the rule 47 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

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[2] If this were the only deficiency in the petition, the Office might deem the last known addresses to be as set forth in the declaration. However, in this instance, there are other deficiencies, including the omission of a declaration for patent, executed pursuant to § 1.47(b).

the United States Patent Quarterly) relied on to demonstrate a proprietary interest should be made of record. See MPEP 409.03(f).

As to item (7),

Petitioner makes no assertion. On request for reconsideration, rule 47 applicant must submit proof of irreparable damage. See MPEP 409.03(g).

On Request for Reconsideration, to avoid abandonment and attain 1.47 status, applicant must correct the noted deficiencies and provide a 1.47 petition in compliance with all applicable law.

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

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

or effective with any response mailed on or after May 1, 2003

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450[3]

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

[3] Effective May 1, 2003, the United States Patent and Trademark Office has a new address for some mail. See Correspondence with the United States Patent and Trademark Office, 68 Fed. Reg. 14332 (March 25, 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

Paper No. 8

ADE & COMPANY
1700-360 MAIN STREET
WINNIPEG MB R3C3Z-3 CA CANADA

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OCT 24 2003

OFFICE OF PETITIONS

In re Application of :
Cecil Morin, Clifford Ronden, :
Brian Reimer and :
Stanley Lachmansingh :
Application No. 10/097,644 :
Filed: March 15, 2002 :
Attorney Docket No. 85127-102 :
Title: EXTRUDED PERMANENT FORM-WORK:
FOR CONCRETE :

DECISION REFUSING STATUS
UNDER 37 CFR §1.47(b)

This is in response to the "PETITION UNDER 37 CFR 1.47(b)," filed October 10, 2003. Pursuant to the accompanying authorization to charge any required fees to Deposit Account No. 01-0310, the required petition fee of $130 for consideration under § 1.47(b) has been charged[1].

The petition under 37 CFR § 1.47(b) is **DISMISSED**.

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

The above-identified application was filed on May 15, 2002, without an executed oath or declaration, missing the statutory basic filing fee and with additional claim fees due. Cecil Morin, Clifford Ronden, Brian Reimer and Stanley Lachmansingh were named as joint inventors. In response to a "Notice to File Missing Parts of Application," mailed April 15, 2002, applicants filed the initial papers under § 1.47(b) on October 15, 2002. However, the petition was dismissed for failure to submit an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175; provide adequate proof that the non-signing inventors cannot be found or reached after diligent effort, or refuse to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); include a statement of the last known address of the non-signing inventors; make out a *prima facie* case (i) that the invention has been assigned to him or her or (ii) that the

[1] The initial decision on petition mailed April 11, 2003, erred in stating that the petition fee under § 1.47(b) was $65. The fee is $130 and is not subject to reduction for a small entity. The deficiency of $65 has now been charged to the Deposit Account (The late surcharge is $65).

inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage.

On instant renewed petition, made timely by an accompanying request for extension of time within the fourth month (and fee), rule 47 applicant cured all of but one of these deficiencies. Rule 47 applicant submitted an acceptable declaration executed by the rule 47(b) applicant on behalf of the non-signing inventors. Thereon, the signor stated his relationship to the non-signing inventors (i.e., President of assignee company). Furthermore, in support of a conclusion that inventors Lachmansingh and Reimer cannot be reached or located to join in the application, petitioner has submitted copies of Internet searches. Having considered this additional evidence, it is now concluded that rule 47 applicant has now shown diligent efforts to locate inventors Lachmansingh and Reimer to join in the application. Rule 47 applicants have now provided a statement of the last known addresses of the non-signing inventors. To demonstrate proprietary interest, the instant renewed petition includes a statement by the President of the company that the invention in question was conceived in the course of the named inventors employment with Wood Composites Technologies, Inc. (WCT). Furthermore, the petition includes a letter drafted by a member in good standing of the Law Society of Alberta, to the effect that a court of competent jurisdiction would by the weight of the authority in the jurisdiction award title of the invention to the rule 47 applicant, as the drafter states that such inventions are "the sole property of their employers." The petition includes a copy (in the English language) of a court decision cited in the letter. Finally, the instant renewed petition includes a declaration from G. David Richardson stating that the original filing date is needed to preserve a loss of rights and to private irreparable damage.

However, as to inventors Morin and Ronden, the amended statutory declaration of attorney Kevin Ozubko filed on renewed petition continues to only support a conclusion that the assignment and declaration for this application, and Canadian Patent No. 2,298,319, were presented to inventors Morin and Ronden. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956). The presentation of Canadian Patent No. 2,298,319 to the inventors does not satisfy the requirement that the application papers that are the subject of the instant declaration for patent be presented to the inventors. Petitioner still has not shown that the instant application was presented to inventors Morin and Ronden and thereafter, they refused to join in the application. The opinion of attorney Ozubko, set forth in his statutory declaration, that both Ronden and Morin clearly

understood what invention the application papers related to and that both Ronden and Morin refused to sign based on lingering resentment regarding WCT does not satisfy the requirement of § 1.47(b) that before a refusal can be alleged, applicants must demonstrate that a *bona fide* attempt was made to present a copy of the application papers to the non-signing inventors. It still remains that rule 47(b) applicant has not shown that such a *bona fide* attempt was made.

On Request for Reconsideration, to avoid abandonment and attain 1.47 status, applicant must correct the noted deficiency and provide a 1.47 petition in compliance with all applicable law.

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

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
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. 10

ADE & COMPANY
1700-360 MAIN STREET
WINNIPEG MB R3C 3Z3
CANADA

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DEC 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Cecil Morin, Clifford Ronden, :
Brian Reimer and :
Stanley Lachmansingh :
Application No. 10/097,644 :
Filed: March 15, 2002 :
Attorney Docket No. 85127-102 :
Title: EXTRUDED PERMANENT FORM-WORK:
FOR CONCRETE :

DECISION ACCORDING STATUS
UNDER 37 CFR §1.47(b)

This is in response to the "PETITION UNDER 37 CFR 1.47(b)," filed November 14, 2003.

This second renewed petition under 37 CFR § 1.47(b) is **GRANTED**.

The above-identified application was filed on May 15, 2002, without an executed oath or declaration, missing the statutory basic filing fee and with additional claim fees due. Cecil Morin, Clifford Ronden, Brian Reimer and Stanley Lachmansingh were named as joint inventors. In response to a "Notice to File Missing Parts of Application," mailed April 15, 2002, applicants filed the initial papers under § 1.47(b) on October 15, 2002. However, the petition was dismissed for failure to submit an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175; provide adequate proof that the non-signing inventors cannot be found or reached after diligent effort, or refuse to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); include a statement of the last known address of the non-signing inventors; make out a *prima facie* case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage.

A first renewed petition filed October 10, 2003, cured all of but one of the deficiencies. The renewed petition was dismissed for failure to show that the instant application (not Canadian Patent No. 2,298,319) was presented to inventors Morin and Ronden and thereafter, they refused to join in the application.

On instant renewed petition, petitioner submitted evidence to show that all of the application papers were mailed to inventors Morin and Ronden. Petitioner supplied a copy of the E-mail sent in response by inventor Ronden, stating that he would not sign

the declaration for patent. The application papers were sent to inventor Morin at the address at which he was previously sent mail by rule 47(b) applicant. However, the papers were returned as inventor Morin had since moved. No forwarding address was provided. Under the circumstances, it is concluded that petitioner has now made a *bona fide* attempt to present all of the application papers to inventor Morin.

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

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

The application file is being forwarded to the Office of Initial Patent Examination (OIPE) for completion of pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
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

MR. STANLEY LACHMANSINGH
4221 SINTON ROAD
COLORADO SPRINGS, CO 80907

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OFFICE OF PETITIONS

In re Application of :
Cecil Morin, Clifford Ronden, :
Brian Reimer and : LETTER
Stanley Lachmansingh :
Application No. 10/097,644 :
Filed: March 15, 2002 :
Attorney Docket No. 85127-102 :
Title: EXTRUDED PERMANENT FORM-WORK:
FOR CONCRETE :

Dear Mr. Lachmansingh:

You are named as the joint inventor in the above-identified United States application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted 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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ADE & COMPANY
1700-360 MAIN STREET
WINNIPEG MB R3C 3Z3
CANADA

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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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MR. BRIAN REIMER
4202-37TH AVENUE
LEDUC AB
CANADA
T9E 6A5

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OFFICE OF PETITIONS

In re Application of
Cecil Morin, Clifford Ronden,
Brian Reimer and
Stanley Lachmansingh
Application No. 10/097,644
Filed: March 15, 2002
Attorney Docket No. 85127-102
Title: EXTRUDED PERMANENT FORM-WORK
FOR CONCRETE

LETTER

Dear Mr. Reimer:

You are named as the joint inventor in the above-identified United States application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted 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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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MR. CLIFFORD RONDEN
6515-145A STREET
EDMONTON AB
CANADA
T6H 4J1

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DEC 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Cecil Morin, Clifford Ronden, :
Brian Reimer and : LETTER
Stanley Lachmansingh :
Application No. 10/097,644 :
Filed: March 15, 2002 :
Attorney Docket No. 85127-102 :
Title: EXTRUDED PERMANENT FORM-WORK:
FOR CONCRETE :

Dear Mr. Ronden:

You are named as the joint inventor in the above-identified United States application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted 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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MR. CECIL MORIN
BOX 31, Ste 2, R.R. #1
WARBURG AB
T0C 2N0

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DEC 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Cecil Morin, Clifford Ronden, :
Brian Reimer and : LETTER
Stanley Lachmansingh :
Application No. 10/097,644 :
Filed: March 15, 2002 :
Attorney Docket No. 85127-102 :
Title: EXTRUDED PERMANENT FORM-WORK:
FOR CONCRETE :

Dear Mr. Morin:

You are named as the joint inventor in the above-identified United States application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted 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
Senior Petitions Attorney
Office of Petitions

ADE & COMPANY
1700-360 MAIN STREET
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UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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FEB 15 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ray T. Chen et al. :
Application No. 10/097,680 :
Filed: March 14, 2002 :
Attorney Docket No. 15436.250.17.1 :

This is in response to the paper filed September 16, 2005 under 37 CFR 1.27(g)(2) requesting that status as a Small Entity be removed.

In accordance with the September 16, 2005 request, the request is **GRANTED** and status as a Small Entity has been removed.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of
Ray T. Chen et al.
Application No. 10/097,680
Filed: March 14, 2002
Attorney Docket No. 15436.250.17.1

ON PETITION

This is a decision on the petition filed September 16, 2005, under 37 CFR 1.137(a)[1] and alternatively under 37 CFR 1.137(b)[2], to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **GRANTED**.
The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

This application became abandoned December 29, 2003 for failure to timely pay the

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 CFR 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137©)).

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

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

issue in response to the Notice of Allowance mailed September 24, 2003. Accordingly, a Notice of Abandonment was mailed February 9, 2004.

Petitioner argues that a revocation and power of attorney, with change of address, was June 17, 2003 and that an acknowledgment by the USPTO was mailed July 1, 2003 but that the Notice of Allowance, Notice of Allowability and Notice of Abandonment were mailed to the previously, revoked, attorneys of record. As proof, petitioner submits copies of the revocation and power of attorney and the notice and acceptance regarding the change filed prior to the mailing of the Notice of Allowance, Notice of Allowability and Notice of Abandonment.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

A review of the file reveals that the petitioner is correct, that a revocation and power of attorney, as well as a notice and acceptance regarding the change, was in fact filed prior to the mailing of the Notice of Allowance, Notice of Allowability and Notice of

---

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Abandonment. It is noted therefore that an error on the part of the USPTO in not updating the address of record caused the office action mailed to not be received by the petitioner. Thus, petitioner's delay in paying the issue fee was unavoidable under the standard set out at 37 CFR 1.137(a).

In view thereof, it will not be necessary to treat this petition alternatively under 37 CFR 1.137(b), the unintentional standard.

The address has been corrected and this matter is being 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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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KENYON & KENYON (SAN JOSE)
333 WEST SAN CARLOS ST.
SUITE 600
SAN JOSE CA 95110

COPY MAILED

AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of :
ZHENG, Guo Qiang :
Application No.: 10/097,682 :
Filing Date: March 13, 2002 :
Docket No.: 2855/40 :
For: METHOD AND APPARATUS ... :
DYNAMIC ELECTRICAL TESTING :

DECISION

ON PETITION UNDER

37 CFR 1.181

This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR §1.137(b)," filed July 16, 2004, which is being treated as a petition to withdraw the holding of abandonment under §1.181.

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 September 24, 2003. The Office action set a period for reply of one (1) month from the mail date of the action, with extensions of time obtainable under 37 CFR 1.136(a). No reply having been made of record and no extension of time received, the above-identified application became abandoned on October 25, 2003. A Notice of Abandonment was mailed on June 25, 2004.

The petition was filed promptly thereafter. Therein, petitioner states that the restriction requirement and extension of time are copies of what was timely filed on November 24, 2003. Petitioner submits a copy of the papers as filed and a copy of their return postcard receipt showing a date-stamp of receipt of the papers on November 24, 2003.

MPEP at section 503 states, in part:

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

The postcard receipt lists the restriction requirement and the extension of time. The postcard receipt is date stamped and lists the serial number, title, and inventor.

The postcard receipt is adequate evidence that the restriction requirement was received. The copy is accepted as having been received on November 24, 2003.

The holding of abandoned is hereby **WITHDRAWN**.

Since consideration of the petition under §1.137(b) is unnecessary for the reasons cited, the petition fee ($1330) is being refunded to Deposit Account No. 11-0600.

The application is being returned to Technology Center 3723 for consideration of the restriction requirement.

Erin P. Thomson
Erin Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

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Paper No. 6

PIONEER HI-BRED INTERNATIONAL INC.
7100 N.W. 62ND AVENUE
P.O. BOX 1000
JOHNSTON IA 50131

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OFFICE OF PETITIONS

In re Application of	:	
Singletary et al.	:	
Application No. 10/097,691	:	DECISION GRANTING PETITION
Filed: 13 March, 2002	:	
Attorney's Docket No. 0780D	:	

This is a decision on the petition filed on 24 May, 2002, to withdraw the "Notice of Incomplete Nonprovisional Application" mailed on 18 April, 2002, and to accord the above-identified application a filing date of 13 March, 2002.

On 13 March, 2002, the application was filed. On 18 April, 2001, however, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that, *inter alia*, the application had not been accorded a filing date because the application had been deposited without drawings. A two (2)-month period for reply was set.

In response, on 24 May, 2002, the present petition was filed. Petitioners argue that drawings are not necessary under 35 U.S.C. § 113 (first sentence).

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[1] A review of the record reveals that Claims 1, 6-9, and 12-18 are method claims. Therefore, the present application is deemed to be an application

[1] MPEP 601.01(f).

which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 16-1852.

The "Notice of Incomplete Nonprovisional Application" mailed on 18 April, 2002, is hereby vacated to the extent that it stated that the application had not been accorded a filing date.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 13 March, 2002, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 703 308-6918.

DWood

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

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Commissioner for Patents
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DINSMORE & SHOHL LLP
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON, OH 45402-2023

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OFFICE OF PETITIONS

In re Application of Whitney :
Application No. 10/097,710 :
Filing Date: March 13, 2002 :
Attorney Docket No. BAT 0054 PA :

Decision on Petition

This is a decision on the petition filed October 27, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

The application was filed March 13, 2002.

An "Associate Power of Attorney" was filed April 11, 2002. As a result of the paper, the PTO changed the address of record to the address of the associate attorneys.

A non-final Office action was mailed June 13, 2005.

The Office failed to receive a reply and the application became abandoned on September 14, 2005.

A Notice of Abandonment was mailed December 29, 2005.

The petition contends the non-final Office action and the Notice of Abandonment were mailed to an incorrect address. Specifically, petitioner contends the papers should have been mailed to the original address of record.

Discussion:

MPEP 403.01 currently states, and stated at the time the associate power of attorney was filed,

> Where the attorneys bear relation of principal attorney and associate attorney, the correspondence will be had with the associate attorney unless the principal attorney directs otherwise.

Per MPEP 403.01, the Office acted correctly when it changed the address of record after receiving the "Associate Power of Attorney."

Petitioner has failed to prove the non-final Office action was sent to an incorrect address. Therefore, the holding of abandonment will not be withdrawn.

Petitioner may wish to file a petition under 37 CFR 1.137.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

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MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of
Macyln Burns, Anthony
DeRubeis, Paul Albats, Jr.,
Robert Casadonte, Ralf
Birken, Ross Deming, Jakod
Haldorsen, Thorkild Hansen
and Douglas Miller
Application No. 10/097,713
Filed: March 13, 2002
Title of Invention: METHOD
FOR MERGING POSITION
INFORMATION WITH MEASUREMENTS
AND FILTERING TO OBTAIN
HIGH-QUALITY IMAGES THAT ARE
POSITIONED ACCURATELY WITH
RESPECT TO GLOBAL COORDINATES

DECISION GRANTING
PETITION UNDER
37 CFR 1.47

This is in response to the Petition Under 37 C.F.R. 1.47(a), filed August 7, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Douglas Miller, refuses to sign the declaration.

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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CARMEN B. PATTI & ASSOCIATES, LLC
ONE NORTH LASALLE STREET
44TH FLOOR
CHICAGO IL 60602

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OFFICE OF PETITIONS

In re Application of	:	
Cyr et al.	:	
Application No. 10/097,754	:	ON PETITION
Filed: March 14, 2002	:	
Attorney Docket No. LUC-320/CYR 6-1-1	:	

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

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

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed September 21, 2005. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on December 22, 2005. A Notice of Abandonment was mailed on September 21, 2006.

Petitioner asserts that the non-final Office Action mailed on September 21, 2005 was never received. A review of the record indicates the non-final Office Action was mailed to an incorrect correspondence address. A review of the record shows that a copy of the change of correspondence address was received and entered on or about August 28, 2002. The name of the law firm was changed on January 6, 2003. However, on December 15, 2004 the address was improperly changed to a previous address. Thus, the non-final Office Action was improperly mailed.

This application is being forwarded to Art Unit 2155 for re-mailing of the non-final Office Action to the current correspondence address of record. The non-final Office Action extendable period for reply will start upon the re-mailing of the Office Action.

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

#8
2/28/03

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FEB 28 2003

Technology Center 2100

Paper No. 8

PRICE AND GESS
Suite 250
2100 S.E. Main Street
Irvine CA 92614

In re Application of: Takayama et al.
Application No. 10/097,759
Filed: May 22, 2002
For: PROCESSOR FOR EXECUTING HIGHLY EFFICIENT VLIW

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed January 31, 2003 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status...;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain

in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Petitioner's submissions of January 31, 2003 meet the criteria set forth above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

It is noted that Mr. Julio Loza is not an attorney of record. A courtesy copy is being mailed to Julio Loza (Reg. No. 47,758) at the address shown below.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Security, Architecture and Software

Cc: Julio Loza
1920 Main St., Suite 1200
Irvine, California 92614-7230.

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Application of: TAKAYAMA, et al.
Application No. 10/097,759
Filed: May 22, 2002
For: PROCESSOR FOR EXECUTING HIGHLY EFFICIENT VLIW

DECISION ON PETITION UNDER 37 CFR § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition under 37 CFR § 1.181 to withdraw the holding of abandonment of the above-identified application filed via facsimile transmission on 06 April 2005.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a proper reply to the Office letter mailed 16 April 2004. A Notice of Abandonment was mailed 18 March 2005.

In support of the petition, petitioner has provided a copy of an amendment filed in response to the Office action of mail date 16 April 2004 and a copy of a postcard with a date stamp indicating receipt at the USPTO on 16 August 2004 of the above-mentioned amendment and a petition/fee for a one-month extension of time. The fees for a 1-month extension of time and additional claims were posted to the application on August 17, 2004.

MPEP § 503 states:

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

Petitioner has established that a response and a petition/fee for a one-month extension of time were filed on 16 August 2004. Thus, petitioner has established that a response was timely filed and the Abandonment was the result of Office error in not matching the response to the application file.

The petition is **GRANTED**. The Notice of Abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center support staff for processing of the amendment. After processing, the application will then be forwarded to the examiner for appropriate action.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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)
6776962	2004-08-17	10097765	2002-03-13	82434

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	/J. Eric Anderson/	Date (YYYY-MM-DD)	2008-10-15
Name	J. Eric Anderson	Registration Number	58706

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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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6776962
Issue Date: August 17,2004
Application No. 10097765
Filed: March 13,2002
Attorney Docket No. 82434

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

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

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 15,2008 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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.

OIPE JC149
MAR 1 5 2004
PATENT & TRADEMARK OFFICE

B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Group Art Unit 3635

In re

Patent Application of

Robert J. Rebman

Application No. 10/097,774

Confirmation No.: 9572

Filed: March 14, 2002

Examiner: Chapman, Jeanette E.

"CEILING GRID SYSTEM AND METHOD OF ASSEMBLING THE SAME"

I, Sharon A. Johnson, hereby certify that this correspondence is being deposited with the US Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date of my signature.

Sharon A. Johnson
Signature

3-12-04
Date of Signature

REQUEST FOR RECONSIDERATION OF DECISION TO DISMISS PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

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

Sir:

This request responds to the Decision on Petition to Withdraw the Holding of Abandonment ("the Decision") mailed on February 2, 2004. Reconsideration of the Decision is respectfully requested.

Applicant again petitions under 37 C.F.R. 1.181 to withdraw the Notice of Abandonment (paper not yet received at Michael Best & Friedrich, LLP, but abandonment of this case confirmed by a telephone call to the Office of Petitions on September 9, 2003) based on Applicant's failure to receive a Notice of Allowance. According to the MPEP 711.03(c), part II, the Office may grant this petition and remail the Notice of Allowance, provided the proper showing is made establishing nonreceipt of the Notice of Allowance.

The First Petition to Withdraw the Holding of Abandonment was Dismissed because Applicant was under the incorrect assumption that the date the Notice of Allowance was mailed was May 14, 2003. Consequently, Applicant submitted the docketing record for August 14, 2003, i.e., what Applicant thought was the deadline for paying the issue fee. The Decision, however, indicates that the Notice of Allowance was actually mailed on May 15, 2003. Accordingly, a copy of the docket record showing actions due by the firm of Michael Best & Friedrich on August 15, 2003 is being submitted herewith.

Applicant submits the following evidence supporting nonreceipt of the Notice of Allowance:

1. A second affidavit of Gregory J. Hartwig, the practitioner handling prosecution of this application, stating that he did not receive the Notice of Allowance.

2. A second affidavit of Cheri L. Groen, patent docket coordinator at Michael Best & Friedrich, LLP, stating that the nonreceived Notice of Allowance would have been entered in the docket record had the Notice of Allowance been received.

3. A copy of the docket record where the nonreceived Notice of Allowance would have been entered had it been received, a copy of the last reminder sheets generated from our docketing system for the IP department for the day that the issue fee would have been due (August 15, 2003), a copy of our Notice of Allowance docketing instructions, and a copy of the file jacket cover, all bearing no indication of receipt of a Notice of Allowance.

In light of the foregoing, Applicant respectfully requests withdrawal of the holding of abandonment, and reissuance of the Notice of Allowance.

Respectfully submitted,

Gregory J. Hartwig
Reg. No. 46,761

File No. 010293-9015

Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4108
(414) 271-6560

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 18, 2006

TO SPE OF : ART UNIT 2871

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/097780 Patent No.: 7,072,006

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

2871

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

Foster, Swift, Collins & Smith, P. C.
313 South Washington Square
Lansing, MI 48933

COPY MAILED
APR 12 2005
OFFICE OF PETITIONS

In re Application of	:	
Hector Manuel Gomez, et al.	:	
Application No. 10/097,783	:	ON PETITION
Filed: March 13, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

A non-final Office action was mailed to applicant on March 8, 2004, which set a three (3) month shortened statutory period for reply. A continuation application, namely 10/888,538, was filed on July 9, 2004, with a request for a one-month extension of time. A subsequent continuation application, 10/711,288, was filed on September 9, 2004, without a request for a three-month extension of time. Since the extension of time was not obtained for application no. 10/711,288, continuity between the instant application and 10/711,288 was not established.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 10/711,288.

Along with the instant petition, applicant submitted a three-month extension of time. 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 (571) 272-3223.

The application file is being referred to the Files Repository.

Marianne E. Jenkins
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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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

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APR 2 0 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Young & Young :
Application No. 10/097,794 :
Filed: March 14, 2002 :
Attorney Docket No. 1679.004 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2006 (certificate of mailing date January 9, 2006), to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed September 1, 2005. Accordingly, this application became abandoned on December 2, 2005. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the September 1, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

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) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

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AUG 0 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Dusan Stanojevic	:	DECISION ON PETITION
Application No. 10/097,800	:	TO WITHDRAW
Filed: March 14, 2002	:	FROM RECORD
Attorney Docket No. 112824.122US2	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed July 7, 2009.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on July 7, 2009 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

> (1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment;
>
> (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and
>
> (3) notified the client of any replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with items (1) and (3) of the above certifications.

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

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

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. Mr. Wayne A. Keown is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, the request is not approved and all future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified.

Additionally, a grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Mary Rose Scozzafava on behalf of all attorneys of record, associated with Customer Number 23483. However, since the practitioners were not appointed by a Customer Number upon filing of the instant application, petitioner may not withdraw the practitioners by Customer Number.

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

There is an outstanding Office action mailed July 2, 2009 that requires a reply.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PAUL W. MARTIN
LAW DEPARTMENT, WHQ-4
1700 S. PATTERSON BLVD.
DAYTON OH 45479-0001

MAILED

JUN 20 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
POYNTER, WILLIAM DOUGLAS
Serial No. **10/097835**
Filed: March 15, 2002
For: **METHODS FOR SELECTING HIGH VISUAL CONTRAST COLORS IN USER-INTERFACE DESIGN**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, March 15, 2002 requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 1-3, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Dwayne Bost
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. 8

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

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MAR 1 0 2003

OFFICE OF PETITIONS

In re Application of	:
Albert C. Sun et al	:DECISION DISMISSING
Application No. 10/097,839	:THE PETITION UNDER
Filed: March 13, 2002	:37 CFR 1.78(a)(3)
Attorney Docket No. MXIC 1172-8	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 7, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). 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 365(c) and 37 CFR 1.78(a)(2)(i) of the prior-filed application, 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

(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.

This petition lacks compliance with item (1) above.

The amendment submitted concurrently with the petition contains an error in the application number of one of the prior-filed applications; namely, Application No. "09/029,188" should read -- 09/029,118 --. Additionally, it is noted that, while the preliminary amendment submitted with the application indicates that Application No. 09/029,118 claims priority to PCT/US97/13848, the amendment submitted with the petition fails to include this information. Each application must indicate the relationship of each prior-filed application for which the benefit of the claim for priority is being sought. Petitioner's attention is directed to the USPTO website where a notice was posted on February 26, 2003, setting forth guidelines for making a proper claim for priority. For petitioner's convenience, a copy thereof accompanies this decision on petition.

Accordingly, before the petition under 37 CFR 1.78(a)(3) will be granted, the changes noted above should be included in an amendment complying with the provisions of 37 CFR 1.121.

In order to expedite consideration, petitioner may wish to submit the substitute amendment by facsimile transmission to the number indicated below and to the attention of Frances Hicks.

---

number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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

By mail: U.S. Patent and Trademark Office
P.O. Box 2327
Mail Stop DAC
Arlington, VA 22202

OR

Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.

Frances Hicks

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

ATTACHMENT: Notice on Claiming the Benefit of a Prior-filed Application

UNITED STATES PATENT AND TRADEMARK OFFICE

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

M. Robert Kestenbaum
11011 Bermuda Dunes NE
Albuquerque, NM 87111

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NOV 23 2004

OFFICE OF PETITIONS

In re Patent No. 6,788,476	:	
Issue Date: September 7, 2004	:	
Application No. 10/097,898	:	ON PETITION
Filed: March 13, 2002	:	
Attorney Docket No. (Z)99047 P US	:	

This is a decision on the petition filed by facsimile transmission on August 4, 2004, which is being treated as a petition under 37 CFR 3.81[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. Questions concerning the Certificate of Correction may be directed to the Certificates of Correction Branch at (703) 305-8309.

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

[1] *See Official Gazette of June 22, 2004*

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MAY 19 2004
OFFICIAL

IN THE U.S. PATENT AND TRADEMARK OFFICE

U.S. Patent Number: 6,725,706

Title: DEVICE AND METHOD FOR BLOWING DOWN AND MEASURING THE BACK PRESSURE OF CHEMICAL REACTOR TUBES

Inventor: Clifford L. Johns and Daniel D. Sympson

Issue Date: April 27, 2004

Attorney Docket No: VES.101

Certificate of Transmittal by Facsimile

I hereby certify that this paper is being sent by facsimile transmission to FAX No. 703-872-9306 on May 10 2004 Name Carolyn Laugherty
Signature Carolyn Laugherty Date May 10 2004

REQUEST FOR CORRECTION IN PATENT UNDER 35 U.S.C. 254

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

Sir:

Enclosed is PTO/SB/44 form requesting a Certificate of Correction for the above referenced patent.

Respectfully submitted,

Theresa Camoriano

Theresa Fritz Camoriano
Reg. No. 30,038
Camoriano & Associates
8225 Shelbyville Road
Louisville, Kentucky 40222
(502) 423-9850 - Office
(502) 426-1167 - Fax

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,725,706

DATED : April 27, 2004

INVENTORS : Clifford L. Johns and Daniel D. Sympson

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

Claim 8, line 13, following "at least one measurement path from" insert –one of--.

Claim 18, line 17, following "gas path from said multiplexing" delete –gas--.

Claim 18, line 25, insert –a—before "reflecting surface".

MAILING ADDRESS OF SENDER:

Camoriano & Associates
8225 Shelbyville Road
Louisville, KY 40222

PATENT NO. 6,725,706

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20006

COPY MAILED

FEB 27 2003

OFFICE OF PETITIONS

Applicant: Dubief et al.
Appl. No.: 10/097,927
Filing Date: March 15, 2002
Title: COSMETIC COMPOSITIONS BASED ON MULTIBLOCK IONIZABLE POLYCONDENSATES, AND USES THEREOF
Attorney Docket No.: 05725.0224-01
Pub. No.: US 2002/0150546 A1
Pub. Date: October 17, 2002

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on December 17, 2002.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contain a mistake, which may be a material mistake.

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 a mistake as the phrase "Claims" is missing at the start of the claims section, which is not material mistake 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 error identified by applicant is not a material mistake by the Office because 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

[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).

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PAUL D. GORNALL
BARRISTER & SOLICITOR
1820- 355 BURRARD ST.
VANCOUVER BC V6C 2G8 CA CANADA

MAILED

NOV 19 2009

OFFICE OF PETITIONS

In re Patent No. 7,016,518	:	
Issue Date. March 21, 2006	:	
Application No. 10/097,936	:	NOTICE
Filed: March 15, 2002	:	
Attorney Docket No. None	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on March 10, 2009.

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

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

The request under 37 CFR 1.28 cannot be accepted at this time since it appears that the petition is signed on the behalf of the assignee and fails to comply with the requirements of 37 CFR 3.73(b).

37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

BRIAN R HARRIS
MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 S WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

COPY MAILED

JUN 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Bella, et al. :
Application No. 10/097,966 : ON PETITION
Filed: March 14, 2002 :
Attorney Docket No. 02-095 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 19, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a PCT international application filed on March 12, 2003. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

Applicant filed a "Rescission of Request to not Publish Application Pursuant to 35 U.S.C. 122(b) and 37 C.F.R. 1.213" on May 19, 2003.[1] Accordingly, as the rescission was not made until after the filing of the PCT application, applicant was required by 35 U.S.C. 122(b)(2)(B)(iii) to provide notice of the PCT filing not later than forty-five days after the date the PCT application was filed to avoid abandonment of the application.[2]

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

---

[1] Applicant purportedly filed an earlier rescission; however, a copy could not be found in the application file. However, the copy supplied on petition was dated March 13, 2003, after the filing of the PCT application.

[2] See id.

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

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

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

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

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

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth a projected publication date of September 25, 2003 accompanies this decision on petition.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request
(1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

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JAN 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
LePivert et al.	:	
Application No. 11/097991	:	
Filing or 371(c) Date: 03/31/2005	:	
Attorney Docket Number:	:	
03/31/2005	:	ON PETITION

This Decision is in response to the correspondence filed May 8, 2006, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). The correspondence is properly treated as a petition under 37 CFR 1.47(a) See, MPEP 409.03.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Patrick LePivert, refuses to join in the application.

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

This application is being referred to the Office of Patent Application Processing for processing of the reply to the Notice in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DR. PATRICK LePIVERT
6698 LAKELAND COURT
JUPITER, FL 33458

COPY MAILED

JAN 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
LePivert et al.	:	
Application No. 11/097991	:	
Filing or 371(c) Date: 03/31/2005	:	
Attorney Docket Number:	:	
03/31/2005	:	LETTER

Dear Dr. LePivert:

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 (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

CC: MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

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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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of	:	
John A. Salituro, et al.	:	
Application No. 10/097,997	:	ON PETITION
Filed: March 14, 2002	:	
Attorney Docket No. 6337.US.C1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 16, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 23, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on September 23, 2005.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

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

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/098,013	03/31/2005	Hendrik J. Monkhorst	703538.4021

ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE CA 92614-2558

DATE MAILED: July 10, 2006

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d) filed on May 10, 2006, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

~ 1. The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

~ 2. The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

~ 3. The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOUSTON ELISEEVA
4 MILITIA DRIVE, SUITE 4
LEXINGTON, MA 02421

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FEB 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Holger **BIRK, et al.**	:	
Application No. 10/098,016	:	DECISION ON PETITION
Filed: March 13, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **21295/43**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 25, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of September 26, 2007 by the Board of Patent Appeals and Interferences and the Examiner's Interview Summary mailed January 25, 2008 which set shortened statutory period for reply of one (1) month. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 26, 2008. *See* MPEP 1214.06.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The petition lacks item(1), the required reply. The terminal disclaimer filed March 25, 2008 cannot be accepted. Petitioner's attention is directed to 37 CFR 1.33(b), which states:

Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

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

Therefore, as the terminal disclaimer is not signed, nor has required fee of $130 been submitted, it cannot be accepted.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
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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4 MILITIA DRIVE, SUITE 4
LEXINGTON, MA 02421

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OFFICE OF PETITIONS

In re Application of	:	
Holger **BIRK, et al.**	:	
Application No. 10/098,016	:	DECISION ON PETITION
Filed: March 13, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **21295/43**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 13, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of September 26, 2007 by the Board of Patent Appeals and Interferences and the Examiner's Interview Summary mailed January 25, 2008 which set shortened statutory period for reply of one (1) month. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 26, 2008. *See* MPEP 1214.06.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The petition lacks item(1), the required reply. The terminal disclaimer filed March 25, 2008 cannot be accepted. Petitioner's attention is directed to 37 CFR 1.33(b), which states:

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

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

Therefore, as the terminal disclaimer is not signed by a person having authority to prosecute the application (title of signor was omitted), it cannot be accepted.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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4 MILITIA DRIVE, SUITE 4
LEXINGTON, MA 02421

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DEC 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Holger BIRK, et *al.*	:	
Application No. 10/098,016	:	DECISION ON PETITION
Filed: March 13, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **21295/43**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of September 26, 2007 by the Board of Patent Appeals and Interferences and the Examiner's Interview Summary mailed January 25, 2008 which set a shortened statutory period for reply of one (1) month. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 26, 2008. *See* MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a terminal disclaimer and fee of $140, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2878 for appropriate action by the Examiner in the normal course of business on the reply received October 26, 2009.

Brian W. Brown
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 102804

SILICON VALLEY PATENT GROUP LLP
2350 MISSION COLLEGE BOULEVARD
SUITE 3600
SANTA CLARA, CA 95054

NOV 3 2004

In re Application of:	:	
RICHARD NATHAN et al.	:	
Serial No.: 10/098,021	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: March 12, 2002	:	
Attorney Docket No.: **JIG004-1P US**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed October 26, 2004.

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

The request meets all the above stated requirements. The request was signed by Omkar Suryadevara, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed to the assignee, JigSaw Tek, Inc., at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis (571) 272-1596.

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

cc: JIGSAW TEK, INC.
90 GREAT OAKS BLVD., SUITE 206
SAN JOSE, CA 95119

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 0 9 2005

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

Gary M. Nath
Nath & Associates PLLC
1030 15th Street, N.W.
6th Floor
Washington, DC 20005

In re Application of Eldad Taub et al Serial No. : 10/098,094 Filed : March 13, 2002 For : Placing an Orthodontic Element on a Tooth	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT :

This is a decision on petitioner's request filed October 27, 2004, to review the holding of abandonment mailed September 20, 2004, for failure to respond to the Office action mailed December 29, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response, a copy of a one-month extension of time request (including a copy of the canceled check submitted in payment of the fee), and a copy of a PTO stamped receipt dated January 30, 2004 as evidence of the timely filing of a response.

In view of the above, the Notice of Abandonment mailed September 30, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response filed January 30, 2004 as well as the preliminary amendment filed July 20, 2004.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch

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

ak/11/22/04

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NATH & ASSOCIATES
112 South West Street
Alexandria VA 22314

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MAY 09 2008

In re Application of

Taub, et al.

Application No. 10/098,094

Filed: March 13, 2002

Attorney Docket No. 73704

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed March 22, 2007.

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

This application was held abandoned on October 27, 2005, after it was believed that no response was received to the non-final Office action July 26, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment has not yet been mailed.

The instant petition was filed on March 22, 2007, wherein petitioner argues that a timely response to the non-final Office action was filed on September 30, 2005. As evidence of the same, petitioner files a copy of the transmittal sheet for the response containing an Office date-stamp whereby the Office acknowledged receiving the response on September 30, 2005. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

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

The application file is being forwarded Technology Center 3700, GAU 3732, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

PTO/SB/17 (10-07)
Approved for use through 06/30/2010. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2008

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 2540.00

Complete if Known	
Application Number	10/098110
Filing Date	3/14/2002
First Named Inventor	Chen
Examiner Name	
Art Unit	
Attorney Docket No.	100111075-1

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 08-2025 Deposit Account Name: Hewlett-Packard

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☑ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, **except for the filing fee**

☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
Application Type	**Fee ($)**	**Small Entity Fee ($)**	**Fee ($)**	**Small Entity Fee ($)**	**Fee ($)**	**Small Entity Fee ($)**	**Fees Paid ($)**
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	**Fee ($)**	**Small Entity Fee ($)**
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185

Total Claims _____ - 20 or HP = _____ x _____ = _____ **Fee Paid ($)**
HP = highest number of total claims paid for, if greater than 20.

Indep. Claims _____ - 3 or HP = _____ x _____ = _____ **Fee Paid ($)**
HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims **Fee ($)** _____ **Fee Paid ($)** _____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $260 ($130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets _____ - 100 = _____ **Extra Sheets** / 50 = _____ **Number of each additional 50 or fraction thereof** (round up to a whole number) x _____ **Fee ($)** = _____ **Fee Paid ($)**

4. OTHER FEE(S)

Non-English Specification, $130 fee (no small entity discount) **Fees Paid ($)**

Other (e.g., late filing surcharge): Petition fee and 4 year Maintenance fee 2540.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 27,196	Telephone 408-447-4447
Name (Print/Type)	Douglas M. Gilbert		Date June 12, 2008

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6785870	2004-08-31	10098110	2002-03-14	100111075-1

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature		Date (YYYY-MM-DD)	2007-06-12
Name	Douglas M Gilbert	Registration Number	27196

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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FEB 10 2009

OFFICE OF PETITIONS

In re Application of Thomas W. Chen Application No. 10/098,110 Patent No. 6,785,870 Filed: March 14, 2002 Issue Date: August 31, 2004 Attorney Docket Number: 100111075-1 Title: METHOD OF OPTIMIZING HIGH PERFORMANCE CMOS INTEGRATED CIRCUIT DESIGNS FOR POWER CONSUMPTION AND SPEED USING GLOBAL AND GREEDY OPTIMIZATIONS IN COMBINATION	DECISION ON PETITION UNDER 37 C.F.R. § 1.378(C)

This is a decision on the petition filed June 12, 2008, pursuant to 37 C.F.R. § 1.378(c), requesting the reinstatement of the above-identified patent.

This petition is **DISMISSED AS UNNECESSARY.**

The patent issued on August 31, 2004. The period for paying the 3½-year maintenance fee without the surcharge associated with the late submission of a maintenance fee payment extended from August 31, 2007 to February 1, 2008 and for paying with this surcharge from February 2, 2008 to August 31, 2008.

On June 12, 2008, Petitioner submitted the maintenance fee, the surcharge associated with the late submission of a maintenance

fee payment, and the surcharge associated with the filing of this petition. As such, both the 3½-year maintenance fee and the surcharge associated with the late submission of a maintenance fee payment were filed prior to August 31, 2008.

It follows that this patent did not expire, and this petition is not necessary. Moreover, Office records reflect that this patent has not expired.

The surcharge associated with the filing of this petition will be refunded to Petitioner's Deposit Account in due course. It is noted that the surcharge associated with the late submission of a maintenance fee payment was refunded to Petitioner's Deposit Account on October 1, 2008: this fee will be charged to Petitioner's Deposit Account in due course.

The general phone number for the Office of Petitions that should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/07/06

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/098134** Patent No.: **7009643**

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. 183

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: _____

DAVID OMETZ
SUPERVISORY PATENT EXAMINER
SPE

2622
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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Paper No. 7

MAIL

MAR 1 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Thomas A. Turano
TESTA, HURWITZ, & THIBEAULT, LLP
High Street Tower
125 High Street
Boston, MA 02110

In re Application of:
Duursma et al.
Application No. 10/098/157
Filed: March 14, 2002
For: METHOD AND SYSTEM FOR GENERATING A GRAPHICAL DISPLAY FOR A REMOTE TERMINAL SESSION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed February 27, 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 February 27, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

for James R. Matthews

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

cc: John D. Lanza, Esq.
LAHIVE & COCKFIELD, LLP
28 State Street, 24th Floor
Boston, MA 02109-1784

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 10

MARK A. MURPHY
NEEDLE & ROSENBERG, P.C.
127 PEACHTREE STREET, N.E.
ATLANTA, GA 30303-1811

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DEC 23 2002

OFFICE OF PETITIONS

In re Application of
Magnus Pfahl et al
Application No. 10/098,184
Filed: March 8, 2002
Attorney Docket No. 13099.0016U2

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 1600.

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
P.O. Box 1450
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NEEDLE & ROSENBERG PC
999 PEACHTREE STREET, SUITE 1000
ATLANTA, GA 30309-3915

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DEC 08 2005

OFFICE OF PETITIONS

In re Application of	:
Magnus Pfahl et al	:
Application No. 10/098,184	: DECISION GRANTING PETITION
Filed: March 8, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 13099.0016U2	:

This is a decision on the petition, filed November 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 24, 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 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

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OFFICE OF PETITIONS

In re Application of
Jeffrey Phillips
Application No. 10/098,193
Filed: March 15, 2002
Attorney Docket No. 6385-23

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 December 8, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

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

The instant pending nonprovisional application was filed on March 15, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/276,364, which was filed on March 15, 2001, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

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

Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having

found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/276,364 is granted.

It is noted that the petition, request under 37 CFR 1.78(a)(6), and amendment were embodied in one paper. Petition should in the future comply with 37 CFR 1.4(c), which states:

> Since different matters may be considered by different branches or sections of the US Patent and Trademark Office, each distinct subject, inquiry or order should be contained in a separate letter to avoid confusion and delay in answering letters dealing with different subjects.

Additionally, petitioner should note that amendments to the application must comply with the provisions of 37 CFR 1.121.

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 questions concerning this decision on petition may be directed to Retta Williams at (703) 306-5594. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1746 for appropriate action on the amendment submitted December 8, 2003, including 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. 60/276,364.

Brian Hearn, for

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

Attachment: Corrected Filing Receipt

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BERKELEY, CA 94704-0778

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In re Application of :
Jeffrey Phillips :
Application No. 10/098,194 :
Filed: March 15, 2002 :
Attorney Docket No. 6385-19 :

ON PETITION

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed December 8, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

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

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

The instant pending nonprovisional application was filed on March 15, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/276,291, which was filed on March 15, 2001, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v.

Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

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

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

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

By hand: Customer Window located at:

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

---

[1] *Note* 37 CFR 1.121

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

Any questions concerning this matter may be directed to Retta Williams at (703) 306-5594.

Frances Hicks

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

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)
6,622,451	2003-09-23	10098210	2002-03-18	

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	/vk007law/	Date (YYYY-MM-DD)	2007-11-21
Name	Vladimir Khiterer	Registration Number	46168

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6622451
Issue Date: September 23,2003
Application No. 10098210
Filed: March 18,2002
Attorney Docket No.

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

This is a decision on the electronic petition, filed November 21,2007 ,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 November 21,2007. 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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United States Patent and Trademark Office
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DIW Aug-06

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Patent No. 7,010,168	:	
Issued: 7 March, 2006	:	
Application No. 10/098,213	:	ON PETITION
Filed: 15 March, 2002	:	
Atty. Docket No. 002013.P024	:	

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 17 April, 2006.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

The 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**.

Small entity status will no longer apply.

Telephone inquiries should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

RECEIVED
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MAY 1 0 2004
OFFICIAL

Docket No. C043719/0130621

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Kathrine Baumann
Title:	METHOD FOR DECORATIVE CRYSTALS
Serial No.:	10/098,215
Filing Date:	March 14, 2002
Examiner:	Jeff H. Aftergut
Art Unit:	1733

Approved
Jacqueline M. Stone, Director
Technology Center 1700

AUG 1 6 2004

VIA FACSIMILE - 1-703-872-9306

Director-Technology Center 1700
United States Patent and Trademark Office
Alexandria, VA 22313-1450

REQUEST FOR PERMISSION TO WITHDRAW AS ATTORNEYS OF RECORD

Sir:

This Request For Permission to Withdraw as Attorney of Record ("Request") is submitted on behalf of Bryan Cave LLP and all attorneys associated therewith and all attorneys of record (collectively, "Petitioner").

The reason for this Request is that Applicant (Petitioner's client) has failed to pay one or more bills rendered to it by Petitioner Bryan Cave LLP in connection with the captioned application (and other matters) for a period of time now well exceeding 12 months. 37 CFR § 10.40. Petitioner has sought to settle Applicant's account, but to no avail.

Since August, 2002, Petitioner notified Applicant to pay its well-overdue and considerable accounts receivable balance. In a letter to Applicant dated November 22, 2002, Petitioner formally terminated further representation by Bryan Cave LLP with respect to all

matters pending before the U.S. Patent and Trademark Office. At that time, and again recently, Petition advised Applicant that it would also prepare and file its withdrawal as attorneys of record specifically as to this application. *In re Slack*, 54 USPQ2d 1504 (Ass't Comm'r Trademarks 2000). At present, Applicant's account balance remains unpaid and well overdue and the Applicant and Petitioner no longer have an attorney/client relationship.

Withdrawal will not prejudice Applicant. The subject application received its first non-final Office Action on March 24, 2004. The Office Action set forth a three-month shortened statutory period for response, with further extensions of time to respond available pursuant to 37 C.F.R §1.136(a)(1). Petitioner has forwarded to Applicant by next day courier service: (i) a copy of the subject Office Action to the Applicant (ii) a cover letter providing proper notice of the deadlines to file a response, and (iii) copies of all papers and property in Petitioner's file for the subject application.

Petitioner also includes herewith a Request for One Month Extension of Time to file a response to the Office Action along with authorization to charge Petitioner's deposit account for the applicable fee therefor. Given the Request for One Month Extension, the deadline to file a response to the Office Action shall be July 24, 2004, or more than two months after the date of this Petition.

It is respectfully submitted that Requirement No. (5) in *In re Slack*, namely, that "A statement that the applicant was given notice of attorney's withdrawal from employment at least two months prior to the expiration of the response period," has been fulfilled by Petitioner in this matter.

Petitioner respectfully requests and solicits early consideration and approval of this Petition, and expedited entry of the withdrawal.

RSDOCS1\1151689.1

Upon entry and approval of the withdrawal, please forward any correspondence regarding the application to the present contact mailing address for the Applicant:

Ms. Kathrine Baumann
Mr. Daniel Busby, CFO
Kathrine Baumann Company
441 N. Beverly Drive, Suite 210
Beverly Hills, California 90210

The present mailing address of Bryan Cave LLP is:

BRYAN CAVE LLP
1290 Avenue of the Americas
New York, NY 10104

In view of the foregoing, it is respectfully requested that this Request be granted.

This paper is being signed on behalf of all attorneys of record.

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office (Fax No. (703) 872-9306 on May 10, 2004
(Date of Transmission)
Charles T. J. Weigell
Name of applicant, assignee, or Registered Representative
Signature
5/10/04
Date of Signature

Respectfully submitted,

By: _____
Charles T.J. Weigell,
Reg. No. 43,398
BRYAN CAVE LLP
1290 Avenue of the Americas
New York, NY 10104
(212) 541-2000

RSDOCS1\1151689.1

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MAY 1 0 2004
OFFICIAL

Docket No. C043719/0130621

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Kathrine Baumann
Title:	METHOD FOR DECORATIVE CRYSTALS
Serial No.:	10/098,215
Filing Date:	March 14, 2002
Examiner:	Jeff H. Aftergut
Art Unit:	1733

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

VIA FACSIMILE - 1-703-872-9306

Director-Technology Center 1700
United States Patent and Trademark Office
Alexandria, VA 22313-1450

AUG 1 6 2004

REQUEST FOR PERMISSION TO WITHDRAW AS ATTORNEYS OF RECORD

Sir:

This Request For Permission to Withdraw as Attorney of Record ("Request") is submitted on behalf of Bryan Cave LLP and all attorneys associated therewith and all attorneys of record (collectively, "Petitioner").

The reason for this Request is that Applicant (Petitioner's client) has failed to pay one or more bills rendered to it by Petitioner Bryan Cave LLP in connection with the captioned application (and other matters) for a period of time now well exceeding 12 months. 37 CFR § 10.40. Petitioner has sought to settle Applicant's account, but to no avail.

Since August, 2002, Petitioner notified Applicant to pay its well-overdue and considerable accounts receivable balance. In a letter to Applicant dated November 22, 2002, Petitioner formally terminated further representation by Bryan Cave LLP with respect to all

PAGE 2/5 * RCVD AT 5/10/2004 6:00:25 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID: * DURATION (mm-ss):01-22

matters pending before the U.S. Patent and Trademark Office. At that time, and again recently, Petition advised Applicant that it would also prepare and file its withdrawal as attorneys of record specifically as to this application. *In re Slack*, 54 USPQ2d 1504 (Ass't Comm'r Trademarks 2000). At present, Applicant's account balance remains unpaid and well overdue and the Applicant and Petitioner no longer have an attorney/client relationship.

Withdrawal will not prejudice Applicant. The subject application received its first non-final Office Action on March 24, 2004. The Office Action set forth a three-month shortened statutory period for response, with further extensions of time to respond available pursuant to 37 C.F.R §1.136(a)(1). Petitioner has forwarded to Applicant by next day courier service: (i) a copy of the subject Office Action to the Applicant (ii) a cover letter providing proper notice of the deadlines to file a response, and (iii) copies of all papers and property in Petitioner's file for the subject application.

Petitioner also includes herewith a Request for One Month Extension of Time to file a response to the Office Action along with authorization to charge Petitioner's deposit account for the applicable fee therefor. Given the Request for One Month Extension, the deadline to file a response to the Office Action shall be July 24, 2004, or more than two months after the date of this Petition.

It is respectfully submitted that Requirement No. (5) in *In re Slack*, namely, that "A statement that the applicant was given notice of attorney's withdrawal from employment at least two months prior to the expiration of the response period," has been fulfilled by Petitioner in this matter.

Petitioner respectfully requests and solicits early consideration and approval of this Petition, and expedited entry of the withdrawal.

RSDOCS1\1151689.1

Upon entry and approval of the withdrawal, please forward any correspondence regarding the application to the present contact mailing address for the Applicant:

Ms. Kathrine Baumann
Mr. Daniel Busby, CFO
Kathrine Baumann Company
441 N. Beverly Drive, Suite 210
Beverly Hills, California 90210

The present mailing address of Bryan Cave LLP is:

BRYAN CAVE LLP
1290 Avenue of the Americas
New York, NY 10104

In view of the foregoing, it is respectfully requested that this Request be granted.

This paper is being signed on behalf of all attorneys of record.

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office (Fax No. (703) 872-9306 on May 10, 2004
(Date of Transmission)
Charles T. J. Weigell
Name of applicant, assignee, or Registered Representative
Signature
5/10/04
Date of Signature

Respectfully submitted,

By: Charles T. J. Weigell,
Reg. No. 43,398
BRYAN CAVE LLP
1290 Avenue of the Americas
New York, NY 10104
(212) 541-2000

RSDOCS1\1151689.1

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#7

Paper No. 7

Buchanan Ingersoll P.C.
One Oxford Centre
301 Grant Street
Pittsburgh PA 15219-1410

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JUL 30 2003

OFFICE OF PETITIONS

In re Application of
Jeffrey A. Ledbetter, et al.
Application No. 10/098,221
Filed: March 15, 2002
Attorney Docket No. 49076.000008.UTL

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 26, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to respond in a timely manner in reply to the Notice To File Missing Parts of NonProvisional Application mailed May 14, 2002, which set a shortened statutory period for reply of two(2) months. Accordingly, the application became abandoned on July 15, 2002.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry D. Brinkley at (703)305-9220.

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

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry D. Brinkley
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
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BUCHANAN INGERSOLL, P.C.
ONE OXFORD CENTRE, 301 GRANT STREET
20TH FLOOR
PITTSBURGH PA 15219

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SEP 23 2005

OFFICE OF PETITIONS

In re Application of
Jeffrey A. Ledbetter et al.
Application No. 10/098,221
Filed: March 15, 2002
Attorney Docket No. 49076.000008.UTL

ON PETITION

This is a decision on the petition filed September 6, 2005, to revive the above identified application under 37 CFR 1.137(b).

The petition is **DISMISSED**.

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

At the outset, a review of the record indicates that a revocation and power of attorney has been filed on behalf of inventors Jeffrey A. Ledbetter and Martha Hayden-Ledbetter appointing MARSHALL GERSTEIN & BORUN, LLP at 233 S WACKER DR., 6300 SEARS TOWER, CHICAGO, IL 60606 to represent them.

Because MARSHALL GERSTEIN & BORUN, LLP purports to represent two of the five inventors and because the petition to revive the instant application is filed by MARSHALL GERSTEIN & BORUN, LLP and is not signed by either of the other three inventors, or counsel for the other three inventors (BUCHANAN INGERSOLL, P.C.), the petition cannot be addressed on the merits.

The Office will allow for dual representation of inventors however, before the Office will allow for the application to be prosecuted at least a petition under 37 CFR 1.182 and fee, directed to the Office of Petitions, for acceptance of a power of attorney by less than all the applicants in the above-identified application will need to be filed.

At that time, in order to assure that all interests are properly and effectively represented, all further correspondence to the Patent and Trademark Office (PTO) must be signed by petitioner's representative, MARSHALL GERSTEIN & BORUN, LLP,

named in the revocation and power of attorney submitted by Jeffrey A. Ledbetter and Martha Hayden-Ledbetter and by coinventors Nathalie Scholler, Ingegerd Hellstrom and Karl Erik Hellstrom or their representative, BUCHANAN INGERSOLL, P.C.. Each attorney signing subsequent papers must indicate whom he or she represents.

All parties are reminded that dual correspondence is not permitted, and will not be undertaken by the PTO.

The PTO will continue to conduct correspondence with the attorneys first named in the application, i.e., BUCHANAN INGERSOLL, P.C., at the correspondence address of record noted above, who will also be responsible for coordinating replies or submissions to the PTO. See MPEP 402.10.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
MARSHALL GERSTEIN & BORUN, LLP
233 S WACKER DR.
6300 SEARS TOWER
CHICAGO, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARSHALL GERSTEIN & BORUN, LLP
233 S WACKER DR.
6300 SEARS TOWER
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Jeffrey A. Ledbetter et al. :
Application No. 10/098,221 :
Filed: March 15, 2002 :
Attorney Docket No. 30906/41459UTL :

ON PETITION

This is a decision on the petition filed March 27, 2006, to revive the above identified application under 37 CFR 1.137(b)[1].

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

This application became abandoned on February 13, 2005, for failure to file a timely response to a Restriction Requirement mailed January 12, 2005, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed January 25, 2006.

A petition under 37 CFR 1.137(b), filed September 6, 2005, was dismissed in a decision mailed September 23, 2005 because the petition was filed by attorneys with only the power of attorney from two of the three inventors. A revocation and power of attorney executed by the three remaining inventors is acknowledged and has been made of record.

The petition fee in the amount of $750.00 has been applied to the finance records for the instant patent application. Additionally, a fee in the amount of $795.00 filed with the instant petition for a four month extension of time has also been applied. However,

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

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

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

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

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

pursuant to 37 CFR 1.136 however, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $795.00 extension of time fee submitted with the petition on March 27, 2006, was subsequent to the maximum period obtainable for reply, the fee is unnecessary and will be credited to deposit account no. 13-2855.

The response to the Restriction Requirement filed September 6, 2005 will be referred to Technology Center 1644 for further processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER NY 14650-2201

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OFFICE OF PETITIONS

In re Application of
Kindt et. al.
Application No. 10/098,235
Filed: March 15, 2002
For: PIXEL BINNING IMAGE SENSOR
Attorney Docket No: 89015PCW
Pub. No.: US 2006/0077269 A1
Pub. Date: April 13, 2006

This is a decision on the request for corrected patent applications publication under 37 CFR 1.221 (b), received on April 25, 2006, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the publication contains a material error on the front page of the publication as the assignee should be "Eastman Kodak Company" not "National Semiconductor Corporation," as the assignment was transferred to Eastman Kodak Company on August 18, 2004.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The instant request does not identify a material mistake in the publication made by the office. The assignee's name was correctly printed on the patent application publication in accordance with the name provided on the transmittal letter or application data sheet. [2] The office prints the assignee information as reflected on the transmittal letter or application data sheet, if provided by applicant and does not look at the assignment records for the assignment information.

---

[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).

[2] See Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

Even if applicant had provided the assignee information correctly, this would not be a material mistake, as an error in the assignee information would 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.

On April 23, 2002, a Filing Receipt was mailed, which listed the assignee information. To avoid this type of problem or to make a change in the assignment information in the future, applicant's representative should make request a corrected filing receipt along with a supplemental application data sheet.

Applicant's request for a correct patent application publication on April 25, 2006, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.1704(c). This determination will be made on or after a mailing of a Notice of Allowance.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

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 compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dechert LLP
P.O. Box 10004
Palo Alto, CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Todd M. Kinsella et al.	:	
Application No. 10/098,243	:	DECISION ON PETITION
Filed: March 15, 2002	:	TO WITHDRAW
Attorney Docket No. RIGL-024CIP	:	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 18, 2007.

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

A review of the file record indicates that the power of attorney to Dechert LLP has been revoked by the assignee of the patent application on March 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bozicevic, Field & Francis LLP**
1900 University Avenue
Suite 200
East Palo Alto, Ca 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN W. CARPENTER
CROSBY, HEAFEY, ROACH & MAY
P.O. BOX 7936
SAN FRANCISCO CA 94120-7936

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of	:
Andrei Poskatcheev et al	:
Application No. 10/098,246	: DECISION GRANTING PETITION
Filed: March 15, 2002	: UNDER 37 CFR 1.137(b)
Attorney Docket No. SYNRES.00100	:

This is a decision on the petition under 37 CFR 1.137(b), filed November 19, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of September 25, 2003, is accepted as having been unintentionally delayed.

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 the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2825.

Karen Creasy

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

cc:
JOHN W. CARPENTER
REED SMITH LLP
TWO EMBARCADERO CENTER, SUITE 2000
P.O. BOX 7936
SAN FRANCISCO, CA 94120-7936

OIPE JC37
JAN 3 1 2005
PATENT & TRADEMARK OFFICE

3/4/06
APPROVED

Docket No. 064829-011

PATENT

I certify that on **January 21, 2005**, this correspondence is being deposited in the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to: Commissioner for Patents, PO. Box 1450, Alexandria, VA 22313-1450.

Suzi McCraw

Suzi McCraw

Applicant: MERRILL, David Allen et al.
Serial No.: 10/098,249
Filing Date: March 14, 2002
Title: SYSTEMS AND TECHNIQUES FOR SIMULATING FLAMES

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Sir:

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The application has been transferred from this firm. Please change the correspondence address and direct all future correspondence to:

Robert Beck
EMPIRE PRODUCTS, INC.
5061 Brooks Street
Montclair, CA 91763

This request is made on behalf of myself and all the attorney/agents of record.

This request is enclosed in triplicate.

Respectfully submitted,

Craig Gelfound

Craig A. Gelfound, Reg. No. 41,032
Attorney for Applicant
310-277-1533

McDERMOTT WILL & EMERY LLP
2049 Century Park East, 34th Floor
Los Angeles, CA 90067
Telephone: (310) 277-4110 • [fax] (310) 277-4730

LAS99 1383395-1.064829.0011

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BOHAN MATHERS & ASSOCIATES, LLC
PO BOX 17707
PORTLAND, ME 04112-8707

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:
Ulrich Schneck et al	:
Application No. 10/098,267	: DECISION ON PETITION
Filed: March 15, 2002	:
Attorney Docket No. 02-023	:

This is a decision on the petitions under 37 CFR 1.55(c), filed October 4, 2004, which is being treated under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of priority to prior-filed PCT Application No. PCT/DE00/03192, filed September 14, 2000, and under 35 U.S.C. § 119(a)-(d) for the benefit of the filing date of foreign German Application Nos. 100 01 706.1, filed January 18, 2000 and 199 44 974.0, filed September 15, 1999.

The petitions are **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed application is submitted after expiration

of the period specified in 37 CFR 1.78(a)(2)(ii). *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 application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant nonprovisional application was filed after November 29, 2000. The Application Data Sheet filed on August 30, 2004 identifies the foreign application for which benefit is claimed by application number, country and filing date. The certified copies of the foreign patent documents were filed with the instant petition.

While the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay between the date the claim was due under 37 CFR 1.78(a)(1) and 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional." Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

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

This matter is being referred to Technology Center AU 1746 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed PCT application and for consideration of the claim for priority under 35 U.S.C. § 119 for the benefit of the foreign applications as set forth in the concurrently filed Application Data Sheet, respectively.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PRESTON GATES ELLIS & ROUVELAS MEEDS
1735 NEW YORK AVENUE, NW, SUITE 500
WASHINGTON, DC 20006

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DEC 0 8 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kenneth J. Kledzik :
Application No. 10/098,269 :
Filed: March 14, 2002 :
Attorney Docket No. 51365-00052 :

This is a decision on the petition, filed November 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 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]

The Revocation of Power of Attorney filed December 3, 2004 is entered and made of record.

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

This matter is being referred to Technology Center AU 3729 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

Attachment: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

---

[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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S2IPLAW, PLLC
300 MASSACHUSETTS AVENUE, NW
SUITE 1101
WASHINGTON, DC 20001-2692

COPY MAILED

SEP 26 2005

OFFICE OF PETITIONS

In re Application of :
Kenneth J. Kledzik :
Application No. 10/098,269 : ON PETITION
Filed: March 14, 2002 :
Attorney Docket No. 51365-00052 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 19, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 7, 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]

It is noted that the address given on the petition slightly differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03.

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 3729 for further processing of the request for continued examination under 37 CFR 1.114 filed September 19, 2005.

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-27-08

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction on Patent No.: 7183970 (10/098269

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

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

Eva James

Inventorship (adding of inventors

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:

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
SPE

3729
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/098,269	03/14/2002	Kenneth J. Kledzik	044148-005000	2159

22204 7590 09/17/2008
NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

EXAMINER
ARBES, CARL J

ART UNIT	PAPER NUMBER
3729	

MAIL DATE	DELIVERY MODE
09/17/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7,103,970 Issue Date: September 12, 2006 Appl No.: 10/098,269 Filed: March 14, 2002 For: Method and Apparatus for Fabricating a Circuit Board with a Three Dimensional Surface Mounted Array of Semiconductor Chips	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition under 37 CFR 1.48, filed 10 April 2008. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is granted.

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

P. Vo
Supervisory Patent Examiner
Art Unit 3729
Patent Examining Group 3700

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/08/06

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction on Patent No.: 10/098289 6917774

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

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

DAVID M. GRAY
SUPERVISORY PATENT EXAMINER

SPE

2852
Art Unit

Staple Here Only!

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,917,774 B2

DATED : July 12, 2005

INVENTOR(S) : Ichiro Terada, et al.

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

COLUMN 34
Line 44, "(FIGS. 38 44)." should read --(FIGS. 38-44).--.

COLUMN 42
Line 54, "(FIGS. 27 42)." should read --(FIGS. 27-42).--.

COLUMN 48
Line 48, "FIGS. 54 57)," should read --FIGS. 54-57),--.

COLUMN 51
Line 33, "(FIGS. 54 55)." should read --(FIGS. 54-55).--.

COLUMN 59
Line 13, "minimized" should read --be minimized--.
Lines 36-37, "oxide titanium," should read --titanium oxide,--.
Line 50, "width" should read --with a--.

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. 6,917,774 B2

No. of add'l. copies @ 30¢ per page

Form PTO 1050 (Rev. 3-82)
(Form#30) GMJ/Tp DC_MAIN 218079

JAN 31 2006

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/08/06

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction on Patent No.: 10/098289 6917774

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

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

DAVID M. GRAY
SUPERVISORY PATENT EXAMINER

SPE

2852
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON
P.O Box 1022
Minneapolis, MN 55440-1022

22 MAR 2006

In re Application of :
Hamburg, Mark :
Serial No: 10/098,328 : DECISION ON PETITION
Filed: March 15, 2002 :
Title: COMBINING RASTER AND VECTOR DATA IN THE PRESENCE OF TRANSPARENCY

This is a decision on the petition under 37 C.F.R § 1.84(a)(2), filed July 14, 2005, requesting acceptance of color drawings.

The petition requests that the drawings identified as figures 1- 5 and 8A- 8D, 9A, 9B and 10 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R § 1.84 must be accompanied by a fee set forth under 37 C.F.R § 1.17(h) and three (3)sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee and three (3) sets of color drawings of Figures 1-5 and 8A-8D, 9A, 9B and 10.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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The petition is GRANTED.

The application file is being forwarded to the Drafting Division, Drawing Review Branch for review of the drawing figures in light of this decision.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications

PALM INTRANET

Day : Tuesday
Date: 3/21/2006
Time: 08:55:26

Correspondence Address for 10/098328

Customer Number	Contact Information	Address
21876	Telephone: (650).83-9.50 Fax: (650).83-9.50 E-Mail: No E-Mail Address	FISH & RICHARDSON P.C. P.O. Box 1022 MINNEAPOLIS MN 55440-1022

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity Data | Foreign Data | Inv

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

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Paper No.

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

Patent No. 7,126,578	:	DECISION ON REQUEST FOR
Issue Date: October 24, 2006	:	RECONSIDERATION OF
Application No. 10/098,328	:	PATENT TERM ADJUSTMENT
Filed: March 15, 2002	:	and
Atty Docket No. 07844-505001	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)," filed December 21, 2006. Patentee requests that the patent term adjustment indicated in the patent be corrected from three hundred and fifty-two (352) days to four hundred and seventy-two (472) days.

The request for reconsideration of patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of four hundred and seventy-two (472) days.

On October 24, 2006, the application matured into U.S. Patent No. 7,126,578 with a revised patent term adjustment of 352 days. On December 21, 2006, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 472 days. Patentee disputes the reduction of 120 days for the filing of a submission after allowance on March 22, 2006. In effect, patentee asserts no submission was made to the Office on this date; to the contrary, the Office mailed a decision on a petition on this date.

The electronic record has been reviewed, and patentee is correct regarding this "miscellaneous incoming letter."

It is further noted that the record shows 656 days of Office delay, for the application was filed on March 15, 2002, and a First Office action was not mailed until March 22, 2004. Furthermore, the issue fee was received on July 14, 2005, and the patent did not issue until October 24, 2006. This constitutes 656 days of Office delay.

Similarly, the record shows that a non-final rejection was mailed on March 22, 2004, a response was not submitted until July 22, 2004. Moreover, a final rejection was mailed on November 2, 2004, and an after-final amendment was not provided until March 8, 2005. Furthermore, on July 14, 2005, an amendment was submitted after the mailing of the notice of allowance. This constitutes 184 days of Applicant delay.

As such, the total PTA equals 656 minus 184, which equals **472** days.

In view thereof, the patent should have issued with a patent term adjustment of four hundred and seventy-two (472) days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Petitioner's Deposit Account, as authorized in the petition. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred and seventy-two (472) days.**

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,126,578 B1

DATED : October 24, 2006

INVENTOR(S) : Hamburg

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 352 days

Delete the phrase "by 352" and insert – by 472 days --

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

JUN 28 2004

In re Application of	:	
Dwane B. Benson	:	NOTICE OF WITHDRAWAL
Serial No. 10/098,348	:	FROM ISSUE
Filed: March 18, 2002	:	UNDER 37 CFR 1.313(b)
For: FROZEN FRENCH FRIED POTATO PRODUCT:		
WITH TOPICAL ADDITION	:	

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 M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Regis E. Slutter, Esquire
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P O Box 1404
Alexandria, VA 22313-1404

cc: Allowed Files—Pk3-915

UNITED STATES 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. 6948547
Issue Date: September 27,2005
Application No. 10098384
Filed: March 18,2002
Attorney Docket No. 006041.00007

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

This is a decision on the electronic petition, filed May 19,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 19,2010 .
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)
6948547	2005-09-27	10098384	2002-03-18	006041.00007

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	/Darrell G. Mottley/	Date (YYYY-MM-DD)	2010-05-19
Name	Darrell G. Mottley	Registration Number	42912

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

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SEP 1 2 2002

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON DC 20037-1526

In re Application of
Kondoh, et al.
Application No. 10/098,414
Filed: March 18, 2002
Attorney Docket No. J4520.0002/P002

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION FOR RECONSIDERATION OF NOTICE TO FILE CORRECTED APPLICATION PAPERS", filed June 5, 2002, requesting, in effect, partial withdrawal of the Notice to File Corrected Application Papers (Notice), insofar as it pertains to Figures 21A and 21B being omitted from the application . The petition will be treated under 37 CFR 1.53(e).

The application was filed on March 18, 2002. On April 16, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that Figures 21A and 21B described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the application, as filed on March 18, 2002, be considered complete because petitioners filed a Preliminary Amendment on March 18, 2002 that amended the specification to eliminate reference to Figures 21A and 21B and in their place, to reference Figure 21.

A review of the application file reveals that the Preliminary Amendment, filed March 18, 2002, is present in the file.

Petitioners filed exactly what they intended to file on March 18, 2002. Petitioners did not intend to file Figures 21A and 21B and made this clear through the Preliminary Amendment. Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $130.00 petition fee will be refunded to deposit account no. 04-1073.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of March 18, 2002, using the 35 sheets of substitute drawings submitted with the instant petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 20050311

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-9889

MAR 17 2005

In re Application of:	:	
Maeda ET AL.	:	PETITION FOR CORRECTED OFFICE
Serial No.: 10/098,478	:	ACTION AND RESTART OF THE PERIOD
Filed: March 18, 2002	:	FOR RESPONSE
Attorney Docket No.: 501.33745CX3	:	UNDER 37 CFR § 1.181

This is a decision on the petition filed January 3, 2005 for a corrected office action and restart of the period for response under 37 CFR § 1.181.

The petition is **dismissed as moot.**

Petitioner requests a correction office action and restart of the period for response by alleging an omission of the examiner, where claims 47 and 65 were not treated on the merits by the examiner in their office action of December 1, 2004. This is not correct. On page 5 of the office action claims 47 and 65 were addressed as is noted in the amendment and response filed March 1, 2005 filed by Petitioner. It is noted that the Petitioner requested that the instant petition be withdrawn. This withdrawal is granted by dismissing the petition as moot.

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORGAN LEWIS & BOCKIUS
1111 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004

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APR 19 2005

OFFICE OF PETITIONS

In re Application of	:
Stephen P.A. Fodor et al	: DECISION ON PETITION
Application No. 10/098,484	: UNDER 37 CFR 1.78(a)(3)
Filed: March 18, 2002	:
Attorney Docket No. 56297-5003-13	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 26, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (3)

The petition and the accompanying statement make reference to an unintentional delay as to prior-filed Application Nos. 07/612,671 and 07/492,462, which latter application was previously claimed. However, absent from the statements is a reference to Application No. 07/435,316, which is one of the prior-filed applications for which benefit is now being sought. **Therefore, petitioner must submit a statement of unintentional delay as to the prior-filed applications to which benefit is being sought in a renewed petition under 37 CFR 1.78(a)(3).**

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: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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1111 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004

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JUL 15 2005

OFFICE OF PETITIONS

In re Application of	:
Stephen P.A. Fodor et al	: DECISION ON PETITION
Application No. 10/098,484	: UNDER 37 CFR 1.78(a)(3) AND
Filed: March 18, 2002	: DECISION ON PETITION
Attorney Docket No. 56297-5003-13	: UNDER 37 CFR 1.48(c)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 28, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed July 8, 2004. This is also a decision on the petition under 37 CFR 1.48(c), filed January 26, 2005, to add inventors.

The petitions are GRANTED.

DISCUSSION OF 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, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an

amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been previously submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicants are 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.

DISCUSSION OF PETITION UNDER 37 CFR 1.48(c)

A petition under 37 CFR 1.48(c) requires:

(1) a petition including a statement from each person being added that the addition is necessitated by amendment of the claims and that the inventorship error occurred without deceptive intention on his or her part;
(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47;
(3) the fee set forth in 37 CFR 1.17(i); and
(4) the written consent of any assignee, if any of the originally named inventors has executed an assignment.

The petition meets the requirements for a grantable petition under 37 CFR 1.48(c) in that (1) statements from Lubert Stryer (Stryer) and Ronald W. Barrett (Barrett) that the omission of their names in the original declaration, occurred without deceptive intention on their part; (2) a declaration signed by all of the originally-named inventors as well as Stryer and Barrett; (3) the required fee; and (4) assignee's written consent. Accordingly, the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications and the newly added inventors, accompanies this decision on petitions.

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1634 for appropriate action on the amendment filed July 8, 2004, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Morgan Lewis & Bockius, LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of
Stephen A. Fodor, et. al.
Application No. 10/098,485
Filed: March 18, 2002
Attorney Docket No. 056297-5003-13

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 20, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

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JAN 18 2006

OFFICE OF PETITIONS

In re Application of	:
Stephen P.A. Fodor, et. al.	:
Application No. 10/098,485	: DECISION ON PETITION
Filed: March 18, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 056297-5003-13	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 3, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed August 20, 2004.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1634 for appropriate action on the amendment filed August 20, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 18, 2008

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/098545 Patent No.: 7304665 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: _____

SPE

2622
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ROSENBERG KLEIN & LEE
3458 ELLICOTT CENTER DRIVE, SUITE 101
ELLICOTT CITY, MD 21043

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NOV 1 8 2005
OFFICE OF PETITIONS

In re Application of	:	
Lin-Hung Chen	:	
Application No. 10/098,550	:	ON PETITION
Filed: March 18, 2002	:	
Attorney Docket No. MR3003-13	:	

This is a decision on the petition filed, October 13, 2005 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 final Office action mailed January 5, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 6, 2005.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on October 13, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2112 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

Attn: Matthew E. Connors
Samuels, Gauthier & Stevens, LLP
Suite 3300
225 Franklin Street
Boston MA 02110

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JUN 1 8 2002

OFFICE OF PETITIONS

In re Application of
Viens
Application No.: 10/098,577
Filed: March 14, 2002
Attorney Docket No. 6620

DECISION ON PETITION

This is a decision on the petition entitled, "PETITION REGARDING NOTICE OF OMITTED ITEMS," filed April 25, 2002, requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Application (Notice) . The petition will be treated under 37 CFR 1.53(e).

The application was deposited on March 14, 2002. On April 17, 20002, the Office of Initial Patent Examination mailed a Notice informing petitioner that drawing figures 3, 4, and 5 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that drawing figures 3,4, and 5 be accorded a filing date of March 14, 2002 on the basis that 31 pages of specification, claims, abstract and drawings, including drawing figures 3, 4, and 5, were received in the Patent and Trademark Office (PTO) on March 14, 2002. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing March 14, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 31 pages of specification, claims, abstract and drawings.

The return postcard constitutes *prima facie* evidence that 31 pages of specification, claims, abstract and drawings were filed on March 14, 2002. MPEP 503. A review of the application file reveals that 21 pages of specification, claims, and abstract are present. Only 7 sheets of drawings are present. Those pages missing correspond to pages containing drawing figures 3, 4, and 5. Accordingly, the request is granted.

Pursuant to petitioner's authorization, the $130.00 petition fee will be credited to deposit account no. 19-0079.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **March 14, 2002**, using the copies of drawing figures 3, 4, and 5 submitted

with the instant petition. Office records will be corrected to show that 10 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

Townsend and Townsend and Crew, LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

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JAN 23 2004

OFFICE OF PETITIONS

In re Application of	:	
Steve R. Krajewski, et al.	:	
Application No. 10/098,586	:	ON PETITION
Filed: March 14, 2002	:	
Attorney Docket No. 020375-005400US	:	

This is a decision on the petition under 37 CFR 1.137(a), filed January 12, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The showing of record is sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 151 and 37 CFR 1.137(a).

The application file is being forwarded to Technology Center 2100.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER
	20050511

DATE MAILED: MAY 12 2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

DECISION ON PETITION - U.S. Application Serial No. 10/098,594

This is a decision on the petition filed on April 7, 2005. The petition asserts that the correction of two patent numbers on page 8, line 4, of the text of the specification is not new matter. The petition requests that the Examiner's holding of new matter, set forth in the Non-final Office Action mailed February 10, 2005, be withdrawn and the changes entered into the file.

DECISION

The Instant PETITION is accepted as a petition under 37 CFR 1.181 (no fee).

A review of the application record and the petitioner's evidence indicates that the request has merit and is sufficient to establish that the correction of the two patent numbers on page 8, line 4 of the instant specification is not new matter. It is clear that the replacement of the original patent numbers (U.S. Patent 1,043,282 and DE 2447013), with the corrected patent numbers (British Patent 1,043,282 and DE 2447613) is proper given the fact that the replacement patent numbers are drawn to procedures for the preparation of silica compositions, while the disclosures set forth by the original patent numbers are not.

The petition is GRANTED.

The amendments to page 8, line 4 of the instant specification will be entered.

J.A. Lorengo, Supervisory Patent Examiner
TC 1700, Art Unit 1755
Chemical and Materials Engineering

Frederick D. Vastine, Ph.D.
Oblon, Spivak, McClelland, Maier and Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

COPY MAILED
AUG 0 5 2004
OFFICE OF PETITIONS

In re Application of	:	
John H. Oates	:	
Application No. 10/098,628	:	NOTICE
Filed: March 14, 2002	:	
Attorney Docket No. 0102323-00098		

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 2631 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-26-07

TO SPE OF : **Technology Center** 3625 10/098634

SUBJECT : Request for Certificate of Correction on Patent No.: 7266513 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Elisha Evans

Thank You For Your Assistance

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:

JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3625

Art Unit

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JJGJR.: 06-06

Paper No: __

PHARMACIA CORPORATION
GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS MO 63006

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JUN 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Gregory, et al.	:	DECISION
Application No.: 10/098,644	:	
Filing Date: 15 March, 2002	:	
Attorney Docket No. C2916/4 (PHA 4151.7)	:	

This is a decision on the petition filed on 12 December, 2005, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 16 May, 2005, with reply due absent extension of time on or before 16 August, 2005;
- the application went abandoned by operation of law after midnight 16 August, 2005;
- the Office mailed the Notice of Abandonment on 6 December, 2005;
- on 12 December, Petitioner filed the instant petition (with fee), a reply in the form of an

amendment, and made statement unintentional delay–thus indicating that Petitioner has 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]))

---

[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.

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995. Petitioner may review the commentary set forth at MPEP §711.03(c) and the language at 37 C.F.R. §1.137(b) for guidance.

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 1600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 14

DAVID T. BURSE
BINGHAM McCUTCHEN LLP
THREE EMBARCADERO CENTER
SUITE 1800
SAN FRANCISCO CA 94111-4067

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MAY 28 2004
OFFICE OF PETITIONS

In re Application of	:	
Krueger et al.	:	
Application No. 10/098,661	:	ON PETITION
Filed: March 15, 2002	:	
Attorney Docket No. 261/181	:	

This is a decision on the petition under 37 CFR 1.182, filed December 11, 2003, to change the name of the first named inventor.

The petition is **granted**.

The name of the first inventor will be changed from Katie L. Messing **to Katie L. Krueger**. The Office records have been corrected to reflect the change of the first inventor's name as noted above.

The file is being forwarded to Technology Center 3700.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

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OFFICE OF PETITIONS

In re Application of :
Mashinsky et al. :
Application No. 10/098,667 :
Filed: March 15, 2002 :
Attorney Docket Number: 5068-15 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 29, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed June 7, 2005. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on September 8, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the instant petition and requests revival of the application. A review of the petition reveals that Applicant has asserted that an Amendment in response to the Office action has been filed with the petition; however, no reply to the non-final Office action has been located among the application papers.

Applicable law, Rules and MPEP

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed); (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (**1**).

As to item (**1**), Applicant has not submitted a reply to the Office action.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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COHEN PONTANI LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of	:	
Alex Mashinsky	:	
Application No. 10/098,689	:	ON PETITION
Filed: March 15, 2002	:	
Attorney Docket No. 4330-4003US1	:	

This is a decision on the petition to revive an abandoned application under 37 CFR 1.137(b), filed February 17, 2006.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed June 10, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were purchased. Accordingly, no reply having received, the application became abandoned on September 11, 2005. A Notice of Abandonment was mailed on December 29, 2005.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of an Amendment, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 3621 for consideration of the Amendment filed February 17, 2006.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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COHEN, PONTANI, LIEBERMAN & PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

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OFFICE OF PETITIONS

In re Application of	:	
Maschinsky	:	DECISION ON APPLICATION
Application No. 10/098,689	:	FOR
Filed: March 15, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 4330-4003US1		

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed July 11, 2008. This paper was recently forwarded to the undersigned for consideration. Applicant requests that the initial determination of patent term adjustment be corrected from one hundred eighty (180) days to four hundred sixty six (466) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED-IN-PART**. The amount of PTA at the time of the mailing of the notice of allowance is Three Hundred and forty-eight (348) days.

The Office has updated the PALM screen to reflect that the Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is 348. A copy of the updated PALM screen, showing the determination, is enclosed.

On April 17, 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 180 days. On July 11, 2008, applicants timely[1] submitted an application for patent term adjustment (with required fee).

Applicants dispute the reduction of 286 days associated with a response filed on February 15, 2006. Applicants contend that the

[1] The Issue Fee payment was also received on August 15, 2008.

examiner contend that they did not file a supplemental response on March 25, 2006. Accordingly, applicants assert that the reduction of 286 days is in error. Accordingly, applicants maintain that the reduction pursuant to 37 CFR 1.704(c) (8) is not warranted. Applicants did not contest the 757 days awarded under 37 CFR 1.702(a)(1) or the 129 days reduced for the reduction under 37 CFR 1.704(b) as it relates to the response to the notice to file missing parts.

Applicants state that the above-indicated application is not subject to a terminal disclaimer.

Upon review, the Office agrees that the 286 day reduction is errant. The file history reflects that the applicants did not submit an amendment in March 2006. Rather the only amendment submitted was the amendment filed on February 17, 2006. Accordingly, the notice of non-compliant amendment was errant. As no supplemental response was filed on March 29, 2006, the period of reduction of 286 days is being removed.

However, the Office failed to reduce for the period of abandonment of the application. Specifically, the Office mailed an Office action on June 10, 2005 and set a shortened statutory period of three months to reply. Since applicant did not respond to the office action the application became abandoned on September 11, 2005. Applicant filed a petition to revive the application on February 17, 2006 that the Office granted on September 01, 2006. Accordingly, the applicant should have received a reduction for the period beginning on September 11, 2005 and ending on June 17, 2006, four months after the grantable petition has been filed. See 37 CFR 1.704(c)(3). The reduction amounts to a period of 280 days. However, since the period of reduction for the abandonment overlaps with the 160 day reduction under 37 CFR 1.704(b), applicant is assessed a reduction of one period of 280 days and not 160 + 280 days.

Accordingly, the amount of PTA at the time of the mailing of the notice of allowance is the following: (757 (Office delay) - (280 + 2 +129)(applicant delay) = 348 days.

The Office notes that the determination does not include any additional time pursuant to 37 CFR 1.702(a)(4) or 1.702(b) nor any reductions pursuant to 37 CFR 1.704(c)(10). The Office will determine the PTA as it relates to such provisions at the time of the issuance of the patent and applicants will be provided

notice in the Issue Notification Letter that is mailed to applicants approximately three weeks prior to the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-7757.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration

Enclosure: Copy of adjusted PALM calculation.

PALM INTRANET

Day : Friday
Date: 9/4/2009
Time: 07:54:49

PTA Calculations for Application: 10/098689			
Application Filing Date:	03/15/2002	PTO Delay (PTO):	757
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	577
Post-Issue Petitions:	0	Total PTA (days):	348
PTO Delay Adjustment:	168		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	09/03/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	168		
58	04/17/2008	MAIL NOTICE OF ALLOWANCE			
57	04/14/2008	ISSUE REVISION COMPLETED			
56	04/14/2008	DOCUMENT VERIFICATION			
55	04/14/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
54	04/14/2008	NOTICE OF ALLOWABILITY			
51	01/30/2008	DATE FORWARDED TO EXAMINER			
50	01/11/2008	RESPONSE AFTER NON-FINAL ACTION		2	49
49	10/09/2007	MAIL NON-FINAL REJECTION			
48	10/01/2007	NON-FINAL REJECTION			
47	08/28/2007	CASE DOCKETED TO EXAMINER IN GAU			
46	08/24/2007	CASE DOCKETED TO EXAMINER IN GAU			
45	06/06/2007	DATE FORWARDED TO EXAMINER			
44	06/01/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
43	06/06/2007	DATE FORWARDED TO EXAMINER			
42	06/01/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			
41	06/06/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
40	06/01/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
39	02/28/2007	MAIL FINAL REJECTION (PTOL - 326)			
38	02/20/2007	FINAL REJECTION			
37	11/30/2006	NEW OR ADDITIONAL DRAWING FILED			
36	12/12/2006	DATE FORWARDED TO EXAMINER			
35	11/30/2006	RESPONSE AFTER NON-FINAL ACTION		286	32
		MAIL NOTICE OF INFORMAL OR NON-			

34	11/01/2006	RESPONSIVE AMENDMENT			
33	09/11/2006	DATE FORWARDED TO EXAMINER			
32.1	02/17/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
32	02/17/2006	RESPONSE AFTER NON-FINAL ACTION		160	15
31	09/11/2006	MAIL NOTICE OF RESCINDED ABANDONMENT			
30	09/11/2006	NOTICE OF RESCINDED ABANDONMENT IN TCS			
29	09/01/2006	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
28	07/10/2006	ADD DISPOSAL COUNT			
27	07/10/2006	DISPOSAL FLAG CHANGE			
19	02/17/2006	PETITION ENTERED			
18	02/09/2006	CORRESPONDENCE ADDRESS CHANGE			
17	12/29/2005	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
16	12/21/2005	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
15	06/10/2005	MAIL NON-FINAL REJECTION	757		-1
14	06/09/2005	NON-FINAL REJECTION			
13	06/02/2005	CORRESPONDENCE ADDRESS CHANGE			
12	06/02/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
11	10/07/2004	CORRESPONDENCE ADDRESS CHANGE			
10	04/02/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	01/14/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	12/12/2002	APPLICATION DISPATCHED FROM OIPE			
7	12/09/2002	APPLICATION IS NOW COMPLETE			
6	11/18/2002	ADDITIONAL APPLICATION FILING FEES		129	3
5	11/18/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	11/18/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
3	04/12/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	03/28/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/15/2002	INITIAL EXAM TEAM NN			

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MAR 0 . 20

#9

DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

In re Application of	:	
Robert T. McWethy	:	
Serial No.: 10/098,729	:	DECISION ON PETITION
Filed: March 15, 2002	:	
For: RETRACTABLE NEEDLE MEDICAL	:	
DEVICE FOR INJECTING FLUID FROM A	:	
PRE-FILLED CARTRIDGE	:	

This is in response to applicants' petition filed May 2, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the merits as it relates HIV/AIDS.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450 or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director,
Technology Center 3700/2900

10-10-08

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 7,420,044
Inventor(s) : John J. Harrington, et. al.
Issued : September 2, 2008
For: NUCLERIC ACID AND PROTEIN HOMOLOGS AND USES THEREOF

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction under Rule 1.322.

On the title page, item [54], the title and column 1, it is the practice to exclude words such as "Improvements in", "A", "Novel", etc., from the printed patent.

In view of the foregoing, your request is hereby denied.

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or 125

Thompson Hine LLP
10 West Second Street
2000 Courthouse Plaza, NE
Dayton, OH 445402

ej

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TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVAND, OH 44115-1414

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael YEUNG, et al	:	
Application No. 10/098,775	:	ON PETITION
Filed: March 14, 2002	:	
Attorney Docket No. 66329/14871	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 27, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 2, 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 (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 does not *prima facie* place the application in condition for allowance (see attached Advisory Action), 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).

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) 272-6735.

Thurman Page
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/098,775	Applicant(s) YEUNG ET AL.	
	Examiner THU HA T. NGUYEN	Art Unit 2153	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 March 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: *none*.
   Claim(s) objected to: *none*.
   Claim(s) rejected: *27-28,30,32-38,40,42-46*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that the enclosed filing 37 C.F.R 1.131 declaration herein establishes that conception for the subject invention was made at least as early June 2001 which is before the Cherry reference filing date which was filed November 05, 2001.
In response to applicant's argument, the examiner submits that since the prosecution of the application is closed hence, the 37 C.F. R 1.131 will not be considered. Therefore, the rejection mailed on May 2, 2007 is maintained.

/THUHA T. NGUYEN/
Primary Examiner, Art Unit 2153

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10098775 Total Records Found: 4

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
03/28/2008	00005867	4	1453	$1,540.00	03/27/2008	CC
03/07/2006	00000089	1	1801	$790.00	03/06/2006	CC
03/21/2002	00000054	1	101	$740.00	03/14/2002	CK
03/21/2002	00000055	1	103	$108.00	03/14/2002	CK

PTO/SB/64 (01-08)
Approved for use through 01/31/2008. 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) 66329/14871

First named inventor: Michael Yeung

Application No.: 10/098,775 Art Unit: 2155

Filed: March 14, 2002 Examiner: Thu Ha T Nguyen

Title: DOCUMENT SERVICE APPLIANCE

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 $ 1,540 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	3-27-08 Date
Susan L. Mizer Typed or printed name	38,245 Registration Number, if applicable
Tucker, Ellis & West LLP Address	(216) 696-3466 Telephone Number
925 Euclid Ave., 1150 Huntington Bldg., Cleveland, Ohio 44115 Address	

Enclosures: ☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☑ Transmitted ~~by facsimile~~ on the date shown below to the United States Patent and Trademark Office ~~at (571) 273-8300~~. electronically.

3/27/2008 Date	Marian E Vasquez Signature
	Marian E. Vasquez Typed or printed name of person signing certificate

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

FIRST NAMED INVENTOR	:	Michael YEUNG **Confirmation No.: 3939**
FOR	:	Document Service Appliance
APPLICATION NO.	:	10/098,775
FILING DATE	:	March 14, 2002
EXAMINER	:	Thu Ha T Nguyen
ART UNIT	:	2155
CUSTOMER NO.	:	**23380**

AMENDMENT

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

OK TO ENTER: /TN/

Sir:

The Final Rejection in the above-identified application was dated May 2, 2007. The three month period for responding to the Office Action expires on August 2, 2007. Applicant's Petition for Revival of an Application for Patent Abandoned Unintentionally is being filed concurrently herewith. Payment of the $1,540.00 petition fee is transmitted herewith.

In response to the Final Rejection dated May 2, 2007, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on **page 2** of this paper.

Remarks/Arguments begin on **page 6** of this paper.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND OH 44115-1414

COPY MAILED

NOV 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael YEUNG, et al	:	
Application No. 10/098,775	:	ON PETITION
Filed: March 14, 2002	:	
Attorney Docket No. 66329/14871	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 2, 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 extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 3, 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 $1540; and (3) the required statement of unintentional delay have been received.

The petition fee of $1620 submitted with the renewed petition filed October 2, 2008, will be refunded to petitioner's Deposit Account No. 50-0902, because no additional fee is due..

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center 2453 for further processing in the normal course of business.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TUCKER ELLIS & WEST, LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

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APR 23 2009

OFFICE OF PETITIONS

In re Application of
Michael Yeung, et. al.
Application No. 10/098,775
Filed: March 14, 2002
Attorney Docket No. 66329/14871

DECISION ON PETITION

This is a decision on the petition under 37 CFR I.182, filed March 17, 2009, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Technology Center Art Unit 2453 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272- 3226.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/098,775	03/14/2002	2453	848	66329/14871	26	2

CONFIRMATION NO. 3939

CORRECTED FILING RECEIPT

23380
TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

OC000000035605521

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)

George Koppich, Palos Verdes Estates, CA;
Michael Yeung, Mission Viejo, CA;
Ashutosh Gijare, Lake Forest, CA;
Manoj Verma, Lake Forest, CA;
Vikas Dogra, Lake Forest, CA;
Sanjay Wangoo, Lake Forest, CA;

Assignment For Published Patent Application

Toshiba Tec Kabushiki Kaisha, Mishima-shi, JAPAN

Power of Attorney:
Eric Jorgenson--46002

Domestic Priority data as claimed by applicant

This application is a CON of 10/052,847 11/10/2001 PAT 7,171,468

Foreign Applications

If Required, Foreign Filing License Granted: 05/20/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/098,775**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Document service appliance

Preliminary Class

709

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).

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

PAUL STEPHEN MANZON
272 GRUBB ROAD
POTTSTOWN PA 19465

COPY MAILED

APR 1 8 2003

OFFICE OF PETITIONS

In re Application of
Manzon
Application No. 10/098,776
Filed: March 14, 2002
Attorney Docket No. N/A
For: LOCAL DEGRADED AREA REPAIR AND RESTORATION COMPONENT FOR PRESSURE RETAINING ITEMS

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed April 8, 2003, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to submit a timely reply to the non-final Office action mailed June 19, 2002, which set an extendable three (3) month period for reply. An amendment was received on September 20, 2002. However, the last date for replying without an extension of time was September 19, 2002 and petitioner did not purchase an extension of time under 37 CFR 1.136(a). Thus, the application became abandoned on September 20, 2002. A Notice of Abandonment was mailed on February 25, 2003.

Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

Petitioner has provided evidence that he entrusted his amendment to the United States Postal Service on September 18, 2002 for next day delivery. He acted as a reasonable and prudent person and retained evidence of timely mailing.

For future reference, the following is an example of a certificate of mailing that should be

typed/written on any USPTO correspondence prior to mailing it by USPS first class mail:

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: (insert date)

Typed or printed name:
Signature: Date:

If petitioner includes and fills out the above certification on all future itemized transmittal letters for amendments, petitions, drawings, and issue fee transmittals, then the current problem will not arise again because the USPTO will accord the correspondence a filing date that matches the date listed on the certificate of mailing.

The file is being returned to Technology Center 3700 for consideration of the amendment filed September 20, 2002.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-12-04

TO SPE OF : ART UNIT 1745

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/098796 Patent No.: 6841057

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 Review Drawings

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. 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: _____

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-12-04

TO SPE OF : ART UNIT 1745

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/098796 Patent No.: 6841057

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 Review Drawings

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. 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: _____

SPE

Art Unit 1745

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Andrew A. Potter	: DECISION ON REQUEST FOR
Patent Number	: 6887686	: RECALCULATION of PATENT
Issue Date	: 05/03/2005	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/098,808	: OF WYETH
Filed	: 03/13/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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)
6533414	2003-03-18	10098850	2002-03-14	PA02313S

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 B. Stein/	Date (YYYY-MM-DD)	2007-08-07
Name	Steven B. Stein	Registration Number	43159

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. 6533414
Issue Date: March 18,2003
Application No. 10098850
Filed: March 14,2002
Attorney Docket No. PA02-313-S

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 7,2007 ,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 August 7,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MILBANK, TWEED, HADLEY & MCCLOY LLP
INTERNATIONAL SQUARE BUILDING
1850 K STREET, N.W., SUITE 1100
WASHINGTON, DC 20006

COPY MAILED

FEB 0 2 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
James G. Lazar :
Application No. 10/098,851 :
Filed: March 15, 2002 :
Attorney Docket No. 38521.00500US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 24, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 20, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 1641 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS HOXIE
NOVARTIS CORPORATION
PATENT AND TRADEMARK DEPT.
564 MORRIS AVENUE
SUMMIT, NJ 07901-1027

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JAN 06 2005

OFFICE OF PETITIONS

In re Application of :
Michael Hugh Quinn et al :
Application No. 10/098,870 : ON PETITION
Filed: March 15, 2002 :
Attorney Docket No. CL/V-31906A :

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121(Notice)) mailed April 19, 2004. The Notice set a period for reply of one month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 20, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1762.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

OIPE JC114
JUN 1 1 2002
PATENT & TRADEMARK OFFICE

COPY OF PAPERS
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T.D

03cc

Attorney Docket No. 50060-00083

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

BARNES, et al.

Serial No.: 10/098,886

Filed: March 15, 2002

Confirmation No.: 3127

Atty. File No.: 50060-00083

For: "INTERCONNECT BUS CROSSOVER FOR MEMS"

Group Art Unit: 2181

Examiner: Not Yet Assigned

RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231 ON JUNE 5, 2002

MARSH FISCHMANN & BREYFOGLE LLP

BY: _____
DAXMARA SANCHEZ

Assistant Commissioner For Patents
Washington, D.C. 20231
BOX MISSING PART

Dear Sir:

In response to the Notice to File Corrected Application Papers having a mailing date of April 11, 2002, in connection with the above-identified application, enclosed herewith please find a separate Submission of Formal Drawings and 11 Sheets of Formal Drawings illustrating Fig. 1A-4.

Although it is believed that no fees are due in connection with this response, please debit any fees required to Deposit Account No. 50-1419. A copy of the Notice to File Corrected Application Papers is also enclosed.

Attorney Docket No. 50060-00083

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

By: Robert B. Berube

Robert B. Berube, Esq.
Registration No. 39,608
Marsh Fischmann & Breyfogle LLP
3151 South Vaughn Way, Suite 411
Aurora, Colorado 80014
Telephone: (303) 338-0997
Facsimile: (303) 338-1514

Date: June 5, 2002

OIPE JC144
JUN 1 1 2002
PATENT & TRADEMARK OFFICE

COPY OF PAPERS
ORIGINALLY FILED

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:	Group Art Unit: 2181
BARNES, et al.	Examiner: Not Yet Assigned
Serial No.: 10/098,886	SUBMISSION OF FORMAL DRAWINGS
Filed: March 15, 2002	
Confirmation No.: 3127	
Atty. File No.: 50060-00083	
For: "INTERCONNECT BUS CROSSOVER FOR MEMS"	

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231 ON JUNE 5, 2002.

MARSH FISCHMANN & BREYFOGLE LLP

BY: _____
DAXMARA SANCHEZ

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the Notice To File Corrected Application Papers having a mailing date of April 11, 2002, regarding the above-identified patent application, enclosed for filing with said application are 11 sheets of formal, inked drawings illustrating Figs. 1A-4 of the application. Figs. 1A-4 constitute all of the drawings in the application.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

By: _____

Robert B. Berube, Esq.
Registration No. 39,608
Marsh Fischmann & Breyfogle LLP
3151 South Vaughn Way, Suite 411
Aurora, Colorado 80014
Telephone: (303) 338-0997
Facsimile: (303) 338-1514

Date: June 5, 2002

COPY OF PAPERS ORIGINALLY FILED

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
10/098,886	03/15/2002	Stephen Matthew Barnes	50060-00083

CONFIRMATION NO. 3127

FORMALITIES LETTER

OC000000007850035

25231
MARSH, FISCHMANN & BREYFOGLE LLP
3151 SOUTH VAUGHN WAY
SUITE 411
AURORA, CO 80014

OIPE JC144 JUN 11 2002 PATENT & TRADEMARK OFFICE

Date Mailed: 04/11/2002

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. 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 required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawings have a line quality that is too light to be reproduced (weight of all lines and letters must be heavy enough to permit adequate reproduction) or text that is illegible (reference characters, sheet numbers, and view numbers must be plain and legible) see 37 CFR 1.84(l) and (p)(1));

A copy of this notice MUST be returned with the reply.

Haimanot Tegbasu
Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES 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

JAN 2 1 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hideki Takehara, et al. :
Application No. 10/098,895 :
Filed: March 13, 2002 :
Attorney Docket No. 10873.904US01 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b).**" This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed July 2, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 4, 2004.

Petitioner has submitted a Request for Continued Examination (RCE) as the reply to the Notice. 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition for reviving an application abandoned or patent lapsed for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof.

Petitioner must submit the $1,400 payment required for the issue fee in accordance with MPEP 711.03(c). Once the fee has been submitted, the application will be revived. Upon revival, the Examiner will consider the RCE and the Amendment.

Petitioner is advised that the issue fee cannot be refunded; but petitioner may request the payment to be applied towards the issue fee required by the new Notice of Allowance[1], if the application is again allowed.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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OFFICE OF PETITIONS

In re Application of :
Hideki Takehara, et al. :
Application No. 10/098,895 : ON PETITION
Filed: March 13, 2002 :
Attorney Docket No. 10873.904US01 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 8, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed July 2, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 4, 2004.

Receipt is acknowledged of the Amendment filed on October 6, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to Technology Center 2800, Art Unit 2811 for processing the Request for Continued Examination under 37 CFR 1.114 filed on October 6, 2004.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego CA 92121-1714

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Louis Oliveira :
Application No. 10/098,907 : ON PETITION
Filed: March 13, 2002 :
Attorney Docket Number: 010423 :
Title of Invention: Apparatus and :
System for Providing Wideband Voice :
Quality in a Wireless Telephone :

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on July 28, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on October 29, 2004. 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 statement of unintentional delay presented in the petition does not comply with the current rule. Pursuant to 37 CFR 1.137(b)(3) a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" is required. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The Office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being 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

OIPE JC109
JUN 1 7 2002
PATENT & TRADEMARK OFFICE

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PATENT
ATTORNEY DOCKET NO.: CXU-352

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Heckel et al	)	Examiner: Unknown
S/N:	10/098,916	)	Art Unit: 1623
Filed:	03/15/2002	)	Conf. No.: 3445
Title:	"Polynucleotide Encoding a Gene Conferring Resistance to Bacillus Thuringiensis Toxins"	)	

RESPONSE TO NOTICE TO COMPLY WITH SEQUENCE DISCLOSURE

BOX SEQUENCE
Commissioner for Patents
Washington, DC 20231

Dear Sir:

By way of this Response, Applicant is providing a substitute computer readable form copy of the Sequence Listing along with a statement under 37 CFR §1.82-1.825 that the content in the computer readable form is identical to the written Sequence Listing and includes no new matter.

Applicant believes that the present submission is responsive to the Notice Requirements and believes that the application in now in condition for examination.

Respectfully submitted,
DORITY & MANNING, PA

J. Bennett Mullinax
Reg. No. 36,221

Dority & Manning, PA
P O Box 1449
Greenville, SC 29602-1449
(V) 864 271 1592
(F) 864 233 7342

No.: 10/098,910 Date: June 11, 2002

03/15/2002 Attorney Doc. No.: CXU-352

mation No.: 3445 Art Unit: 1623

JUN 2002 PATENT & TRADEMARK OFFICE

Polynucleotide Encoding a Gene Conferring Resistance to Bacillus Thuringiensis Toxins

Our Account No.: 04-1403

COPY OF PAPERS ORIGINALLY FILED

ıissioner for Patents
atent and Trademark Office
ngton, DC 20231

llowing completes the filing of the above-identified patent application under Rule 52, 53, and/or 85:
Rule 53 signed Declaration enclosed.
This is a Rule 47 filing per attached Petition.
Enclosed: Original signed Declaration with attached specification (including claims) which is a copy of specification/claims originally filed to secure above filing date.
Specification originally filed in non-English language; hence verified translation attached of:
Abstract [ ] ___ pages of Specification (only spec. & claims) [ ] Drawing Figs.
___ sheet(s) of formal drawings enclosed: size: [ ] A4 [ ] 14" [ ] 8½ by 11
Attached is an assignment to _____.
Priority is hereby claimed under rule 55 and 35 U.S.C. 119 based on prior foreign application(s) no(s).
_____, filed in _____ on _____, respectively.
Certified copy (copies) [ ] attached; [ ] already filed on _____ in U.S. Application, Serial No. _____, filed _____.
"Small Entity" status under Rules 9 & 27 claimed. [ ] Attached: ___ Verified Statement(s) establishing "small entity."
Attached is the request return copy of the PTO Notice under Rule 52, 53, and/or 85.
Attached: Response; Sequence List Certification; Sequence List; Computer Readable Sequence List; Return Postcard
Preliminary Amendment: _____.

THE FOLLOWING FILING FEE IS BASED ON CLAIMS AS FILED LESS ANY ABOVE CANCELLED PER MPEP § 506 AND § 607

If not earlier paid, add Basic Filing Fee	$_____
Total Effective Claims _____ - 20 = _____ x $18.00 =	$_____
Independent Claims _____ - 3 = _____ x $84.00 =	$_____
If any proper multiple dependent claim (ignore improper) is present, add $280.00	$_____
Filing Fee	$_____
PTO Notice under Rule 52, 53, and/or 85 set an original due date of _____, n is hereby made for an extension to cover the date this response is filed for which the ite fee is enclosed (1 month $110; 2 months $400; 3 months $920; 4 months $1440).	$_____
is the first time either signed Declaration filed or filing fee paid, add Surcharge ($130)	$_____
Subtotal	$_____
all entity" status box above is X'd, enter half (1/2) of subtotal & subtract -	$_____
Total =	$_____
n-English" box above is X'd, add Rule 17(i) or (k) processing fee $130.00)	$_____
ignment" box is X'd, add recording fee ($40.00)	$_____
le 47" box above is X-d, add Petition fee $130.00 Rule 17(h)	$_____
TOTAL FEE ENCLOSED	$ --0--

Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any fees in addition to e(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed ter, and which may be required under Rules 16-18 (deficiency only) now or hereafter relative to this application e resulting official document under Rule 20, or credit any overpayment, to our Account No. shown in the heading for which purpose a duplicate copy of this sheet is attached. This statement does not authorize charge of the ee in this case.

RESS:
Office Box 1449
ville, South Carolina 29602
: 864-271-1592
nile: 864-233-7342

DORITY & MANNING
ATTORNEYS AT LAW, P.A.
By Atty: J. Bennett Mullinax Reg. No. 36,221
Signature: J. B. Mullinax

ov certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope

OIPE JC109
JUN 17 2002
COPY OF PAPERS ORIGINALLY FILED

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
10/098,916	03/15/2002	David G. Heckel	CXU-352

22827
DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

CONFIRMATION NO. 3445
FORMALITIES LETTER
OC000000007907432

Date Mailed: 04/18/2002

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE JC139
SEP 0 3 2002
PATENT & TRADEMARK OFFICE

PATENT #7

ATTORNEY DOCKET NO.: CXU-352

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Heckel et al	)	Examiner: Unknown
S/N:	10/098,916	)	Art Unit: 1623
Filed:	03/15/2002	)	Conf. No.: 3445
Title:	"Polynucleotide Encoding a Gene Conferring Resistance to Bacillus Thuringiensis Toxins"	)	

RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

US Patent & Trademark Office
Box Sequence
Rm 1B03-Mailroom, Crystal Plaza Two
2011 South Clark Place
Arlington, VA 22202

Dear Sir:

In response to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures dated July 16, 2002, Applicant is providing a substitute computer readable form copy of the Sequence Listing along with a copy of the statement under 37 CFR §1.82-1.825 that the content in the computer readable form is identical to the written Sequence Listing and includes no new matter. Applicant states that the substitute diskette is an identical copy of the "file copy" provided by Harbor Consulting.

Applicant believes that the present submission is responsive to the Notice Requirements and believes that the application is now in condition for examination.

Respectfully submitted,
DORITY & MANNING, PA

J. B. Mullinax

J. Bennett Mullinax, Reg. No. 36,221

Dority & Manning, PA
P O Box 1449
Greenville, SC 29602-1449
(V) 864 271 1592
(F) 864 233 7342

OIPE JC139
SEP 03 2002
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/098,916	03/15/2002	David G. Heckel	CXU-352

22827
DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

CONFIRMATION NO. 3445
FORMALITIES LETTER
OC000000008460315

Date Mailed: 07/16/2002

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d). Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

In re Application of: Heckel et al

Serial No.: 10/098,916

Filed: 03/15/2002

Confirmation No.: 3445

OIPE JC139 SEP 03 2002 PATENT & TRADEMARK OFFICE

Attention: Application Branch

Date: August 30, 2002

Attorney Docket No.: CXU-352

Art Unit: 1623

Our Account No.: 04-1403

Title: "Polynucleotide Encoding a Gene Conferring Resistance to *Bacillus Thuringiensis* Toxins

Commissioner for Patents
U.S. Patent and Trademark Office
Washington, DC 20231
Sir:

The following completes the filing of the above-identified patent application under Rule 52, 53, and/or 85:

[ ] Rule 53 signed Declaration enclosed.
[ ] This is a Rule 47 filing per attached Petition.
[ ] Enclosed: Original signed Declaration with attached specification (including claims) which is a copy of specification/claims originally filed to secure above filing date.
[ ] Specification originally filed in non-English language; hence verified translation attached of:
[ ] Abstract [ ] ___ pages of Specification (only spec. & claims) [ ] Drawing Figs.
[ ] ___ sheet(s) of formal drawings enclosed: size: [ ] A4 [ ] 14" [ ] 8½ by 11
[ ] Attached is an assignment to _____.
[ ] Priority is hereby claimed under rule 55 and 35 U.S.C. 119 based on prior foreign application(s) no(s). _____, filed in _____ on _____, respectively. Certified copy (copies) [ ] attached; [ ] already filed on _____ in U.S. Application, Serial No. _____, filed _____.
[ ] "Small Entity" status under Rules 9 & 27 claimed. [ ] Attached: ___ Verified Statement(s) establishing "small entity."
[x] Attached is the request return copy of the PTO Notice under Rule 52, 53, and/or 85.
[x] Attached: Diskette; Certification under 37 CFR 1.82-1.825; Response; Return Receipt Postcard.
[ ] Preliminary Amendment: _____.

THE FOLLOWING FILING FEE IS BASED ON CLAIMS AS FILED LESS ANY ABOVE CANCELLED PER MPEP § 506 AND § 607

If not earlier paid, add Basic Filing Fee ..... $_____
Total Effective Claims _____ - 20 = _____ x $18.00 = $_____
Independent Claims _____ - 3 = _____ x $84.00 = $_____
If any proper multiple dependent claim (ignore improper) is present, add $280.00 $_____
Filing Fee $_____

Since PTO Notice under Rule 52, 53, and/or 85 set an original due date of _____, petition is hereby made for an extension to cover the date this response is filed for which the requisite fee is enclosed (1 month $110; 2 months $400; 3 months $920; 4 months $1440). $_____

If this is the first time either signed Declaration filed or filing fee paid, add Surcharge ($130) $_____
Subtotal $_____
If "small entity" status box above is X'd, enter half (1/2) of subtotal & subtract - $_____
Total = $_____
If "non-English" box above is X'd, add Rule 17(i) or (k) processing fee $130.00) ..... $_____
If "assignment" box is X'd, add recording fee ($40.00)..... $_____
If "Rule 47" box above is X-d, add Petition fee $130.00 Rule 17(h)..... $_____
TOTAL FEE ENCLOSED $_____ --0--

The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any fees in addition to the fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (deficiency only) now or hereafter relative to this application and the resulting official document under Rule 20, or credit any overpayment, to our Account No. shown in the heading hereof for which purpose a duplicate copy of this sheet is attached. This statement does not authorize charge of the issue fee in this case.

ADDRESS:
Post Office Box 1449
Greenville, South Carolina 29602
Phone: 864-271-1592

DORITY & MANNING
ATTORNEYS AT LAW, P.A.
By Atty: J. Bennett Mullinax Reg. No. 36,221

OIPE JC139
SEP 0 3 2002
PATENT & TRADEMARK OFFICE

OIPE

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SYSTEMS
BRANCH

CRF Problem Report

The Scientific and Technical Information Center (STIC) experienced a problem when processing the following computer readable form (CRF):

Application Serial Number: 10/098,916
Filing Date: 5/22/2002
Date Processed by STIC: 6/27/2002

STIC Contact: **Mark Spencer, 703-308-4212**

Nature of Problem:

The CRF (was):

✓ (circle one) Damaged or Unreadable (for Unreadable, see attached)
____ Blank (no ~~files on CRF~~) (see attached)
____ Empty file (filename present, but no bytes in file) (see attached)
____ Virus-infected. Virus name: _____ The STIC will not process the CRF.
____ Not saved in ASCII text
____ Sequence Listing was embedded in the file. According to Sequence Rules, submitted file should **only** be the Sequence Listing.
____ Did not contain a Sequence Listing. (see attached sample)
____ Other:

_____

PLEASE USE THE CHECKER VERSION 3.1 PROGRAM TO REDUCE ERRORS. SEE BELOW FOR ADDRESS:

http:/www.uspto.gov/web/offices/pac/checker

Applicants submitting genetic sequence information electronically on diskette or CD-Rom should be aware that there is a possibility that the disk/CD-Rom may have been affected by treatment given to all incoming mail. Please consider using alternate methods of submission for the disk/CD-Rom or replacement disk/CD-Rom. Any reply including a sequence listing in electronic form should NOT be sent to the 20231 zip code address for the United States Patent and Trademark Office, and instead should be sent via the following to the indicated addresses:

1. EFS-Bio (**<http://www.uspto.gov/ebc/efs/downloads/documents.htm>**, **EFS Submission User Manual** - ePAVE)
2. **U.S. Postal Service:** U.S. Patent and Trademark Office, Box Sequence, P.O. Box 2327, Arlington, VA 22202
3. **Hand Carry directly to:**
   U.S. Patent and Trademark Office, Technology Center 1600, Reception Area, 7th Floor, Examiner Name, Sequence Information, Crystal Mall One, 1911 South Clark Street, Arlington, VA 22202
   Or
   U.S. Patent and Trademark Office, Box Sequence, Customer Window, Lobby, Room 1B03, Crystal Plaza Two, 2011 South Clark Place, Arlington, VA 22202
4. **Federal Express, United Parcel Service, or other delivery service to:** U.S. Patent and Trademark Office, Box Sequence, Room 1B03-Mailroom, Crystal Plaza Two, 2011 South Clark Place, Arlington, VA 22202

Revised 01/29/2002

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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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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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APR 21 2005

OFFICE OF PETITIONS

In re Application of	:
Benny K. BLACKWELL et al.	:
Application No. 10/098,920	: DECISION GRANTING PETITION
Filed: March 14, 2002	: UNDER 37 CFR 1.137(b)
Attorney Docket No. PI1360USNA	:

This is a decision on the petition under 37 CFR 1.137(b), filed December 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 22, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 23, 2004. A Notice of Abandonment was mailed on October 8, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. However, 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.

Assuming that the petitioner was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, the reply to the non-final Office action of March 22, 2004 is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Betsy Deppe at (571) 272-6052 or in her absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 1725 for appropriate action on the concurrently filed reply.

Frances Hicks for

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Connolly Bove Lodge & Hutz LLP
1007 North Orange Street
P O Box 2207
Wilmington, DE 19899

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

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

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MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of Xilinas et al. Application No. 10/098,922 Filed: March 15, 2002 Title of Invention: USE OF PHANQUINONE FOR THE TREATMENT OR PREVENTION OF MEMORY IMPAIRMENT	:	DECISION GRANTING PETITION UNDER 37 CFR 1.47

This is in response to the Petition Under 37 C.F.R. 1.47(a), filed November 18, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Michael Xilinas, refuses to sign the declaration.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: PENNIE & EDMONDS LLP
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-2711

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Mr. Michael Xilinas
15 Atalantis Street
145 63 Kifissia, Greece

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MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Xilinas et al. :
Application No. 10/098,922 :
Filed: March 15, 2002 :
Title of Invention: USE OF :
PHANQUINONE FOR THE TREATMENT OR :
PREVENTION OF MEMORY IMPAIRMENT : LETTER

Dear Mr. Xilinas:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA, CA 91105

Mr. GEORGOPOULOS
45 KONIARI STREET
114 71 ATHENS, GREECE

UNITED STATES 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

Mark D. Elchuk
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
BLOOMFIELD, HILLS MI 48303

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NOV 29 2005

OFFICE OF PETITIONS

In re Application of
Erickson, et al.
Application No. 10/098,955
Filed: March 15, 2002
Attorney Docket No. 7784-000410

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed August 24, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to respond to the "Requirement for Statement under § 305(c) of the Aeronautics and Space Act" mailed September 6, 2002, which allowed a non-extendable period for reply of thirty (30) days from its mailing date. No response was received within the allowed period and the application became abandoned on October 6, 2002. A Notice of Abandonment was mailed on November 13, 2002.

The instant petition was filed on August 24, 2005, and has established that the entire delay in responding to the notice of September 6, 2002, was unavoidable because the notice and the Notice of Abandonment were sent to an incorrect address.

The "Property Rights Statement to DOE and/or NASA (42 USC §§2182 and 2457)—Inventor(s) Employed by an Organization" filed August 24, 2005, is noted.

The address as cited on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address provided on the petition. All future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application file is being directed to Technology Center 3600, GAU 3662 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Mark D. Elchuk
5445 Corporate Drive, suite 400
Troy, MI 48098-2683

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AUG 14 2006

OFFICE OF PETITIONS

CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO, CA 92121

In re Application of	:
Stergiopoulos, et al.	: DECISION ON PETITION
Application No. 10/098,968	:
Filed: March 15, 2002	:
Atty. Dkt. No.: 8105-010-US	:

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the final Office action mailed March 28, 2005. The final Office action set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed May 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(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 1600 for processing of the RCE submitted herewith.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRIAN M. DINGMAN, ESQ.
MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH MA 01581

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JUL 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
David A. Tesisni	:	
Application No. 10/098,982	:	DECISION ON PETITION
Filed: March 15, 2002	:	
Attorney Docket No. 16925-00002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees and to submit corrected formal drawings on or before August 22, 2006, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed May 22, 2006. Accordingly, the date of abandonment of this application is August 23, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700.00, the publication fee of $300.00, and corrected formal drawings , (2) the petition fee of $750.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in is absence, the undersigned at (571) 272-7099.

This application is being referred to Publishing Division for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

KENYON & KENYON
One Broadway
New York NY 10004

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FEB 2 8 2003

OFFICE OF PETITIONS

In re Application of
Christos Hatzis, Pankaj Prakash, John G. Babish, and Linda M. Pacioretty
Application No. 10/099,000
Filed: March 13, 2002
Attorney Docket No. 11694/302
Title: METHOD FOR ASSOCIATION OF GENOMIC AND PROTEOMIC PATHWAYS ASSOCIATED WITH PHYSIOLOGICAL OR PATHOPHYSIOLOGICAL PROCESSES

DECISION DISMISSING PETITION UNDER 37 C.F.R. §1.47(a) AS UNTIMELY AND A NOTICE OF ABANDONMENT

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed January 21, 2002 (the petition contains a certificate of mailing dated January 16, 2003).

On March 13, 2002, the application was deposited, identifying Christos Hatzis, Pankaj Prakash, John G. Babish, and Linda M. Pacioretty as joint inventors. The application was deposited without a fully executed oath or declaration. On April 24, 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 substitute drawings were required. This Notice set a two-month period for reply.

On September 16, 2002, the Office received a declaration, the surcharge, drawings, and a three-month extension of time to make timely this response. Unfortunately, the declaration did not contain the signature of inventor Prakash. Consequently, on October 8, 2002, a Notice of

[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 diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(5) a declaration which complies with 37 CFR §1.63.

Incomplete Reply (Nonprovisional) was mailed. The notice did not extend the period for reply, although it did indicate that extensions were available.

The original Notice was mailed on April 24, 2002, and it set a period of response of two months. Petitioner has already purchased a three-month extension of time, bringing the period to respond from June 24, 2002 to September 24, 2002. The instant petition does not include a request for an extension of time, although it does include an authorization to charge any additional fees. Unfortunately, the maximum extension of time which one may purchase is five (5) months, which would bring the period to respond up to November 24, 2002. Since the petition was not mailed to the Office until January 16, 2003, this application became abandoned on September 25, 2002.

Hence, the instant petition is **DISMISSED** as untimely.

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)."

In order for the instant petition to be considered, the application must first be revived, which will require the filing of a petition under either 37 CFR 1.181(a) to withdraw the holding of abandonment, 37 CFR 1.137(a)[2] or 37 C.F.R. §1.137(b)[3].

If petitioner wishes to revive this application, a petition should be filed promptly. It long has been the position of the Office that the use of the filing periods (such as in 37 C.F.R. §1.137(b)) as an "extension of time" is an "abuse" of the procedures for reviving abandoned applications, and is contrary to the meaning and intent of the regulation.[4] The Office has indicated that

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2 A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to 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 was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

3 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.

4 See: In re Application of S, 8 USPQ2d 1630, 1632 (Comm'r Pats. 1988). Where there is a question whether the delay was unintentional, the petitioner must meet a burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 C.F.R. §1.137(b). See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

petitions to revive must be filed promptly after the applicant becomes aware of the abandonment.[5]

The reply to this letter may be submitted by mail[6], hand-delivery[7], or facsimile[8].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

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[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 Commissioner for Patents, Box DAC, Washington, DC 20231.

7 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

8 (703) 308-6916, Attn: Office of Petitions.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 12

KENYON & KENYON
One Broadway
New York NY 10004

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NOV 17 2003

OFFICE OF PETITIONS

In re Application of
Christos Hatzis, Pankaj Prakash, John G. Babish, and Linda M. Pacioretty
Application No. 10/099,000
Filed: March 13, 2002
Attorney Docket No. 11694/302
Title: METHOD FOR ASSOCIATION OF GENOMIC AND PROTEOMIC PATHWAYS ASSOCIATED WITH PHYSIOLOGICAL OR PATHOPHYSIOLOGICAL PROCESSES

DECISION ON PETITION UNDER 37 C.F.R. §1.137(b), PETITION UNDER 37 C.F.R. §1.182, AND RENEWED PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], the petition under 37 C.F.R. §1.137(b)[2], and the petition under 37 C.F.R. §1.182, each filed July 28, 2003.

On March 13, 2002, the application was deposited, identifying Christos Hatzis, Pankaj Prakash, John G. Babish, and Linda M. Pacioretty as joint inventors. The application was deposited without a fully executed oath or declaration. On April 24, 2002, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an

[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 diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(5) a declaration which complies with 37 CFR §1.63.

2 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.

executed oath or declaration, a surcharge of $130.00, and substitute drawings were required. This Notice set a two-month period for reply.

On September 16, 2002, the Office received a declaration, the surcharge, drawings, and a three-month extension of time to make timely this response. Unfortunately, the declaration did not contain the signature of inventor Prakash. Consequently, on October 8, 2002, a Notice of Incomplete Reply (Nonprovisional) was mailed. The notice did not extend the period for reply, although it did indicate that extensions were available.

The original Notice was mailed on April 24, 2002, and it set a period of response of two months. Petitioner has already purchased a three-month extension of time, bringing the period to respond from June 24, 2002 to September 24, 2002. The original petition did not include a request for an extension of time, although it did include an authorization to charge any additional fees. Unfortunately, the maximum extension of time which one may purchase is five (5) months, which would have brought the period to respond up to November 24, 2002. Since the original petition was not mailed to the Office until January 16, 2003, this application became abandoned on September 25, 2002.

On January 21, 2003, petitioner filed the original petition under 37 C.F.R. §1.47(a), which was dismissed as untimely via the mailing of a decision on February 28, 2003. The decision set a two-month period for response.

With the renewed petition, a three-month extension of time has been charged to petitioner's Deposit Account, as authorized in the renewed petition, to make timely this response.

<u>The petition under 37 C.F.R. §1.137(b)</u>

37 C.F.R. §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 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §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.

With the instant petition, the petitioner has submitted a three-month extension of time to make timely this request, the petition fee, and has made a statement which is being construed as the proper statement of unintentional delay. The previously filed petition under 37 C.F.R. §1.47(a) shall serve as the required reply.

Therefore, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

<u>The petition under 37 C.F.R. §1.182 to correct the filing receipt</u>

The petition is **GRANTED**.

The petition fee has been charged to petitioner's Deposit Account, as authorized in the petition. A corrected filing receipt has been included with this decision.

The petition under 37 C.F.R. §1.47(a)

Petitioner has set forth that a copy of the application, the declaration, and the power of attorney were sent to the non-signing joint inventor's last known address, and were returned to the sender "due to the shipper's inability to contact Dr. Prakash[3]."

The renewed petition has met requirements (1) – (3) above, but has failed to meet requirements (4) and (5).

Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventors. *As petitioner has set forth that the non-signing joint inventor cannot be reached, petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* There is no indication that Rule 47 applicant attempted to verify non-signing inventor Prakash's address or to determine his forwarding address and to send the application papers to that address for consideration by inventor Prakash [4].

Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventors. No mention is made as to any search done for the non-signing inventor. If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

Applicant should submit documentary evidence such as the results of an E-mail or Internet search. It is important that the statement contain facts as opposed to conclusions[5].

Regarding the fifth requirement above, the submitted declaration is not acceptable, as it is not associated with the instant application. In each of the Office's computer database (PALM – Patent Application Location and Monitoring), the original petition under 37 C.F.R. §1.47(a), the renewed petition under 37 C.F.R. §1.47(a), the petition under 37 C.F.R. §1.137(b), and the Request for Corrected Filing Receipt, the attorney docket number is listed as "12471/302." The declaration submitted with this application lists the attorney docket number as "11694/302". In fact, the Request for Corrected Filing Receipt specifically crosses out the number 11694/302 with red ink, and requests that the filing receipt be "corrected to show the correct attorney docket number as...12471/3202[6]." As such, it is clear that the submitted declaration is not associated with this file. Petitioner will need to submit a new declaration, correctly identifying the instant

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3 Renewed petition, page 1.

4 See MPEP 409.03(d).

5 Id..

6 It is likely that the filing receipt contains the incorrect docket number because that is the docket number on the declaration which petitioner purported to be associated with this application.

application, and have it executed by either the three signing joint inventors or all four joint inventors.

For these reason, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Second Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[7], hand-delivery[8], or facsimile[9].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

7 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
8 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.
9 (703) 308-6916 or (703) 305-4257, Attn: Office of Petitions.

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KENYON & KENYON
One Broadway
New York NY 10004

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JAN 28 2004

OFFICE OF PETITIONS

In re Application of
Christos Hatzis, Pankaj Prakash, John G. Babish, and Linda M. Pacioretty
Application No. 10/099,000
Filed: March 13, 2002
Attorney Docket No. 11694/302
Title: METHOD FOR ASSOCIATION OF GENOMIC AND PROTEOMIC PATHWAYS ASSOCIATED WITH PHYSIOLOGICAL OR PATHOPHYSIOLOGICAL PROCESSES

DECISION ON SECOND RENEWED PETITION UNDER PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the second renewed petition under 37 C.F.R. §1.47(a),[1] filed January 22, 2004.[2]

On March 13, 2002, the application was deposited, identifying Christos Hatzis, Pankaj Prakash, John G. Babish, and Linda M. Pacioretty as joint inventors. The application was deposited without a fully executed oath or declaration. On April 24, 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 substitute drawings were required. This Notice set a two-month period for reply.

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(5) a declaration which complies with 37 CFR §1.63.

2 The decision on the renewed petition was mailed on November 17, 2003, and set a two-month period for response. As January 17, 2004 fell on a Saturday, the response was due on January 19, 2004. The second renewed petition contains a certificate of facsimile transmission date of January 20, 2004, and it was received at the central fax center on the same day. As such, a one-month extension of time has been charged to Petitioner's Deposit Account, as authorized in the petition, to make timely this response.

On September 16, 2002, the Office received a declaration, the surcharge, drawings, and a three-month extension of time to make timely this response. Unfortunately, the declaration did not contain the signature of inventor Prakash. Consequently, on October 8, 2002, a Notice of Incomplete Reply (Nonprovisional) was mailed. The notice did not extend the period for reply, although it did indicate that extensions were available.

On January 21, 2003, petitioner filed the original petition under 37 C.F.R. §1.47(a), which was dismissed as untimely via the mailing of a decision on February 28, 2003. The decision set a two-month period for response.

On July 28, 2003, Petitioner submitted a renewed petition under 37 C.F.R. §1.47(a), coupled with a petition under 37 C.F.R. §1.137(b) to revive the application. On November 17, 2003, a decision was mailed which granted the later and dismissed the former for failure to meet requirements (4) and (5) above.

Regarding the fourth requirement above the decision on the renewed petition set forth:

> Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventors. *As petitioner has set forth that the non-signing joint inventor cannot be reached, petitioner is required to establish that a diligent effort was made to locate the non-signing inventor* (emphasis included). There is no indication that Rule 47 applicant attempted to verify non-signing inventor Prakash's address or to determine his forwarding address and to send the application papers to that address for consideration by inventor Prakash[3].
>
> Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventors. No mention is made as to any search done for the non-signing inventor. If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.
>
> Applicant should submit documentary evidence such as the results of an E-mail or Internet search. It is important that the statement contain facts as opposed to conclusions.[4]

With the second renewed petition, petitioner asserts that the fourth requirement had been met with the renewed petition which was previously submitted on July 28, 2003. In particular, petitioner points to a letter dated January 6, 2003. The letter references three attachments: a letter which was sent to the non-signing inventor, a copy of a federal express label, and a copy of an e-mail which was sent to the non-signing inventor. Although none of these items indicates that a search was undertaken, nevertheless Petitioner asserts that these items constitute evidence of diligent efforts to locate the non-signing inventor.

It is recommended that Petitioner re-read the portion of the decision reproduced above. <u>If Petitioner wishes to assert that the non-signing inventor cannot be located, she must perform a search before she may claim that she cannot find him</u>. Merely sending letters does not constitute a diligent search.

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3 <u>See</u> MPEP 409.03(d).
4 <u>Id.</u>.

It appears that Petitioner has misunderstood what is required to constitute evidence of a diligent effort to locate a non-signing inventor. One cannot claim that a diligent search was conducted if a search was not conducted. Petitioner has made no effort to locate the missing inventor. Petitioner has sent two letters and an e-mail, but has made no effort to locate the missing inventor. Although she claims that the non-singing inventor cannot be located, Petitioner has not looked for him. Petitioner has not done a search for the postal address, the e-mail address, or the phone number. There is no indication that Rule 47 applicant so much as flipped through a phone book in an attempt to verify the inventor's address.

Regarding the fifth requirement above, Petitioner's arguments have been considered, and they have been deemed to be persuasive.

In summary, Petitioner has met requirements (1) –(3) and (5) above. Requirement (4), however, has not been met for the reasons discussed above.

For these reasons, the second renewed petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Third Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Again, Petitioner should conduct a diligent search[5], and then provide evidence of the same. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[6], hand-delivery[7], or facsimile[8].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries should be directed to the undersigned at (703) 305-0011.

Paul Shanoski

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

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5 Petitioner will note that the search must be diligent. For example, Petitioner has indicated that the non-signing inventor no longer works for his former employer. As it is entirely possible that the non-signing inventor has relocated to another town, or even another state, in search of work, a search narrowly tailored to the town in which the non-signing inventor used to live would not constitute a diligent search.

6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

7 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

8 (703) 872-9306, attention Office of Petitions, Attorney Paul Shanoski.

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON
One Broadway
New York NY 10004

In re Application of
Christos Hatzis, Pankaj Prakash, John G. Babish, and Linda M. Pacioretty
Application No. 10/099,000
Filed: March 13, 2002
Attorney Docket No. 11694/302
Title: METHOD FOR ASSOCIATION OF GENOMIC AND PROTEOMIC PATHWAYS ASSOCIATED WITH PHYSIOLOGICAL OR PATHOPHYSIOLOGICAL PROCESSES

DECISION ON THIRD RENEWED PETITION UNDER PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the third renewed petition under 37 C.F.R. §1.47(a),[1] filed June 2, 2004.

On March 13, 2002, the application was deposited, identifying Christos Hatzis, Pankaj Prakash, John G. Babish, and Linda M. Pacioretty as joint inventors. The application was deposited without a fully executed oath or declaration. On April 24, 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 substitute drawings were required. This Notice set a two-month period for reply.

On September 16, 2002, the Office received a declaration, the surcharge, drawings, and a three-month extension of time to make timely this response. Unfortunately, the declaration did not contain the signature of inventor Prakash. Consequently, on October 8, 2002, a Notice of Incomplete Reply (Nonprovisional) was mailed. The notice did not extend the period for reply, although it did indicate that extensions were available.

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 diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(5) a declaration which complies with 37 CFR §1.63.

On January 21, 2003, petitioner filed the original petition under 37 C.F.R. §1.47(a), which was dismissed as untimely via the mailing of a decision on February 28, 2003. The decision set a two-month period for response.

On July 28, 2003, Petitioner submitted a renewed petition under 37 C.F.R. §1.47(a), coupled with a petition under 37 C.F.R. §1.137(b) to revive the application. On November 17, 2003, a decision was mailed which granted the later and dismissed the former for failure to meet requirements (4) and (5) above.

On January 22, 2004, the second renewed petition was filed, which met the fifth requirement above. On January 28, 2004, a decision was mailed which dismissed the petition for failure to meet the fourth requirement above.

With the instant petition, Petitioner has performed a search for the non-signing joint inventor, and therefore is in a position to assert that the non-signing joint inventor cannot be located. As such, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a).

The petition is **GRANTED** and this application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 1600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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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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Pankaj Prakash
99 Florence Street
Apartment 509
Malden, Massachusetts 02148

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JUN 28 2004
OFFICE OF PETITIONS

In re Application of
Christos Hatzis, Pankaj Prakash, John G. Babish, and
Linda M. Pacioretty
Application No. 10/099,000
Filed: March 13, 2002
Attorney Docket No. 11694/302
Title: METHOD FOR ASSOCIATION OF GENOMIC AND PROTEOMIC PATHWAYS ASSOCIATED WITH PHYSIOLOGICAL OR PATHOPHYSIOLOGICAL PROCESSES

LETTER

Dear Mr. Prakash:

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, the attorney of record (Kathryn M. Lumb, KENYON & KENYON, One Broadway, New York, NY, 10004, 212-908-6277) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR §1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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United States Patent and Trademark Office
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Naval Medical Research Center
Attn: (Code 00L)
503 Robert Grant Avenue
Silver Spring, MD 20910-7500

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OFFICE OF PETITIONS

In re Application of Thompson et al. :
Application No. 10/099,001 : Decision on Petition
Filing Date: March 13, 2002 :
Attorney Docket No. 96,862 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 8, 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 21, 2003, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on November 22, 2003. A Notice of Abandonment was mailed May 28, 2004.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The petition is signed by Joseph Hemby. Hemby was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Hemby was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Hemby that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] 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 a portion of the delay 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.

[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 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).

There is no indication Hemby has been given a power of attorney or authorization of agent to prosecute the above-identified application. If Hemby 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 Hemby, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Technology Center Art Unit 1644 will be informed of the instant decision and the application, including the election filed June 8, 2006, will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

HANES & SCHUTZ, P.C.
102 SOUTH TEJON STREET, SUITE 800
COLORADO SPRINGS, CO 80903

In re Application of :
Alan D. DeVilbiss :
Application No. 10/099,012 :
Filed: March 13, 2002 :
Attorney Docket No. 1424.200

ON PETITION

This is a decision on the petition, filed March 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 July 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2632 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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OFFICE OF PETITIONS

HANES & SCHUTZ, P.C.
102 SOUTH TEJON STREET, SUITE 800
COLORADO SPRINGS, CO 80903

In re Application of :
Alan D. DeVilbiss :
Application No. 10/099,012 :
Filed: March 13, 2002 :
Attorney Docket No. 1424.200

ON PETITION

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Petitioner is advised that the issue fee paid on July 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2632 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).

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. 12

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

COPY MAILED

JUN 1 0 2003

OFFICE OF PETITIONS

In re Application of Butcher et al. Application No. 10/099,042 Filed: March 14, 2002 Attorney Docket No. 01-874	: : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(f)

This is a decision on the petition under 37 CFR 1.137(b), filed May 13, 2003, to accept the unintentional delay in timely notifying the United States Patent and Trademark Office (Office) of a foreign filing.

Petitioner states that the present nonprovisional application is the subject of an application filed in a foreign country on February 7, 2003. Petitioner filed a Rescission of Nonpublication Request on January 24, 2003, **prior** to the filing of the PCT application. The above-identified application is not currently abandoned because the request to rescind was filed before the date of the foreign filing.

Therefore, the petition is **dismissed as moot**.

The projected publication date of the above-identified application is September 18, 2003. In view of the previously filed Rescission of Nonpublication Request, a Notice of Publication Fee Due is enclosed with this decision.

The $650.00 petition fee is unnecessary and will be credited to Deposit Account No. 13-2490.

This application is being forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries specifically concerning this decision be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Attachment: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 06/16/03

2 Serial/Patent # 10/099,042

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	9	5/13/03	$ 650
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 650

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 1 3 -- 2 4 9 0

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Petition dismissed as moot

11 REFUND REQUESTED BY: C. T. Donnell

TYPED/PRINTED NAME: C. T. Donnell TITLE: Pet. Atty

SIGNATURE: C. T. Donnell PHONE: 306-5589

OFFICE: 4700

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 6/11/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES 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. 14

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of :
Butcher et al. :
Application No. 10/099,042 :
Filed: March 14, 2002 :
Attorney Docket No. 01-874 :

DECISION ON PETITION

This is in response to the communication of June 16, 2003, regarding the unintentional delay in timely notifying the United States Patent and Trademark Office (Office) of a foreign filing.

In the present communication, petitioner reiterates that the nonprovisional application is the subject of an application filed in a foreign country on February 7, 2003. Petitioner filed a Rescission of Nonpublication Request on January 24, 2003, **prior** to the filing of the PCT application. Additionally, petitioner requests that the original petition to revive the application be withdrawn and seeks a refund of the petition fee. As previously stated in the decision of June 10, 2003, the original petition was dismissed as moot. Furthermore, the Office finance records indicate that the petition fee of $650.00 was refunded to petitioner. The above-identified application is not currently abandoned because the request to rescind was filed before the date of the foreign filing.

Accordingly, the present petition is again **dismissed as moot**.

The projected publication date of the above-identified application is September 18, 2003. The previous decision of June 10, 2003, incorrectly stated that a Notice of Publication Fee Due was enclosed with the decision. Rather, a Notice of Publication Fee Due will be sent to petitioner after a Notice of Allowance is mailed.

This application is being forwarded to Technology Center 3700.

Telephone inquiries specifically concerning this decision be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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SCHWEGMAN LUNDBERG
WOESSNER & KLUTH PA
P O BOX 2938
MINNEAPOLIS, MN 55402

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MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of
Leonard Forbes et al
Application No. 10/099,044
Filed: March 13, 2002
Attorney Docket No. 1303.049US1

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed by facsimile transmission on March 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2874 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUL 14 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paul J. Farrell, Esq.
Dilworth & Barrese
333 Earle Ovington Boulevard
Uniondale, NY 11553

In re application of:
Dong-gyun Kim
Application No. 10/099,047 : **DECISION ON REQUEST**
Filed: March 15, 2002 : **FOR WITHDRAWAL OF**
For: ON-LINE CASH WITHDRAWAL AND FINANCIAL SERVICE APPARATUS AND METHOD OF PROVIDING THE SERVICE USING INTEGRATED INTERNET AND TELEPHONY SERVICE TERMINAL : **ATTORNEY**

This is a decision on the request filed on March 22, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with items A) and B) above.

As to condition A), the attorney making the request does not now have, and apparently never has had, power of attorney in this application.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/vdb: 6/28/04

cc: Robert Groover III
11330 Valleydale Dr.
Dallas, TX 75230

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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C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of
MARKEL
Application No. 10/099,054
Filed: March 13, 2002
Attorney Docket No. 577172000500

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 14, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "application is being transferred to another attorney", does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: MARC KAUFMAN, ESQ.
NIXON PEABODY LLP
401 9TH STREET NW, SUITE 900
WASHINGTON, DC 20004

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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C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of :
MARKEL, Steven O. :
Application No. 10/099,054 :
Filed: March 13, 2002 :
Attorney Docket No. **577172000500** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Adam Keser on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed June 5, 2007 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: **STEVEN O. MARKEL**
3031 E. WYECLIFF WAY
HIGHLANDS RANCH, CO 80126

cc: **MARCH KAUFMAN, ESQ.**
NIXON PEABODY LLP
401 9TH STREET, SUITE 900
WASHINGTON, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

SCHWEGMAN LUNDBERG & WOESSNER/OPEN TV
P.O. BOX 2938
MINNEAPOLIS, MN 55402-0938

In re Application of	:	
Steven O. Markel	:	
Application No. 10/099,054	:	ON PETITION
Filed: March 13, 2002	:	
Attorney Docket No. 2050.111US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 27, 2007, 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 May 28, 2007.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3622 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JORDAN AND HAMBURG
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

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OFFICE OF PETITIONS

In re Patent No. 6,767,743 :
Issue Date: July 27, 2004 :
Application No. 10/099,072 : ON PETITION
Filed: March 15, 2002 :
Attorney Docket No. F-7364 :

This is a decision on the petition under 37 CFR 1.55(a), filed June 24, 2004, for entry of priority papers submitted after the date the issue fee was paid.

The petition is **granted**.

Receipt is acknowledged of papers submitted under 35 USC 119.

The priority papers are accepted as timely filed. The papers have been placed of record in the file.

This matter 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 Wan Laymon at (703) 306-5685. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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APR 01 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jeffrey Alan Sargent et al :
Application No. 10/099,085 :
Filed: March 15, 2002 :
Attorney Docket No. 8470MX :

This is a decision on the petition, filed March 15, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 27, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 1761 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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GREENLEE WINNER AND SULLIVAN
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER CO 80301

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OFFICE OF PETITIONS

In re Application of	:	
J. Michael Alford et al	:	
Application No. 10/099,095	:	ON PETITION
Filed: March 15, 2002	:	
Attorney Docket No. 87-01	:	

This is a decision on the petition, filed May 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 27, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1754 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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WASHINGTON, D.C. 20231
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SQUIRE, SANDERS & DEMPSEY L.L.P.
SUITE 300
ONE MARITIME PLAZA
SAN FRANCISCO, CA 94111

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JUL 1 0 2002

OFFICE OF PETITIONS

In re Application of	:
Syed F.A. Hossainy	: DECISION GRANTING
Application No. 10/099,101	: PETITION
Filed: March 15, 2002	:
Attorney Docket No. 50623.136	:

This is a decision on the petition filed May 22, 2002, requesting that the above-identified application be accorded a filing date of March 15, 2002, rather than the presently accorded filing date of March 18, 2002. The petition is properly treated as a petition under 37 CFR 1.10(c).

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 15, 2002, pursuant to 37 CFR 1.10. In support, applicant provides a copy of the receipt for Express Mail Label No. EL926593504US. The same Express Mail number appears on the transmittal letter for the application papers. It is noted that while the "date-in" on the copy of the Express Mail receipt is not legible, it includes a "San Francisco California, USPS" receipt stamp dated "March 15, 2002." In addition, applicant also provides the Internet USPS Express Mail Tracking and Delivery Confirmation which discloses that the package was deposited on March 15, 2002.

In view of the above, the petition is **granted**. The application will be accorded a filing date of March 15, 2002. A corrected Filing Receipt accompanies this decision on petition.

The $130.00 petition fee is being refunded to Deposit Account No. 07-1850 as authorized.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of **March 15, 2002**.

Telephone inquiries concerning this matter may be directed to Karen Creasy at (703) 305-8859.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BROSEMER, KOLEFAS & ASSOCIATES, LLC - (LUCENT)
1 BETHANY ROAD
BUILDING 4 - SUITE # 58
HAZLET NJ 07730

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MAY 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Gill et al.	:	DECISION ON PETITION
Application No. 10/099,105	:	
Filed: 03/14/2002	:	
Attorney Docket No. GILL 7-5-6	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 2006, and resubmitted on September 26, 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.

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed March 22, 2006, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on June 23, 2006. On September 27, 2006, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 2613.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LOEFFLER JONAS & TUGGEY, LLP
755 EAST MULBERRY STREET
SUITE 200
SAN ANTONIO, TX 78212

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MAR 1 4 2006

OFFICE OF PETITIONS

In re Application of Senia et al. :
Application No. 10/099,107 : Decision on Petition
Filing Date: March 15, 2002 :
Attorney Docket No. 80593.00002 :

This is a decision on the petition under 37 CFR 1.181, filed January 26, 2006, to withdraw the holding of abandonment. This is also a decision on the petition filed in the alternative under 37 CFR 1.137(b) on March 6, 2006.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

Facts:

The Office mailed a "Notice of Drawing Inconsistency with Specification" on August 29, 2005. The Notice provided for a period of reply of the longer of 1 month or 30 days.

As established by petitioner, a reply was filed September 27, 2005. However, due to clerical error, the transmittal page for the reply listed the application number as 10/009,107 rather than 10/099,107. As a result, the papers were not matched with the correct application file.

The transmittal page filed September 27, 2005, included the title of the invention and the attorney docket number for the invention. The transmittal page did not list the name of the first inventor or a filing date for the application. The papers filed September 27, 2005, included a copy of the "Notice of Drawing Inconsistency with Specification."

A Notice of Abandonment was mailed on January 6, 2006.

Analysis:

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

(1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.
(2) The papers contained sufficient information for the Office to determine the correct application number.

As for item (1) on the prior page, the title on the transmittal sheet differs from the title for application no. 10/009,107.

As for item (2) on the prior page, the Office need not determine if the information on the transmittal sheet was sufficient to determine the correct application number since the papers also included a copy of the "Notice of Drawing Inconsistency with Specification." The Notice listed a correct application number.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137() is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee of $750 will be credited to petitioner's deposit account.

The Office accepts the copy of the drawings filed March 6, 2006.

The Office of Publications will be informed of the instant decision so that steps can be taken to issue the application as a patent.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 08, 2007

TO SPE OF : ART UNIT 2839 10/099110

SUBJECT : Request for Certificate of Correction on Patent No.: 6860642 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

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 are minor/editorial in nature

5/3/07

T Patel — SPE

2839 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,860,642

DATED : March 1, 2005

INVENTOR(S) : Vodrahalli et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 1, at line 13, delete "(PLCS)" and insert --(PLCs)--.

In column 4, at line 25, delete "second" and insert --first--.

In column 4, at line 25, delete the second occurrence of "the" and insert --a--.

In column 4, at line 27, delete "second".

In column 4, at line 30, delete "outout" and insert --output--.

In column 4, at line 65, delete "circuit package.".

MAILING ADDRESS OF SENDER
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Blvd. 7th floor
Los Angeles, CA 90025-1026

PATENT NO. 6,860,642

Certificate of Correction (PTO Form 1050)-Amended

JAN 1 7 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
186 Wood Avenue South
Iselin NJ 08830

COPY MAILED

AUG 2 5 2006

OFFICE OF PETITIONS

In re Application of

Hughes, et al.

Application No. 10/099,115

Filed: March 14, 2002

Attorney Docket No. 2001P19587US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 11, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

A review of the application file history reveals that a final Office action was mailed on October 31, 2005, allowing a shortened statutory period for response of three months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). On December 21, 2005, applicant filed a response in the form of an amendment. An Advisory Action was mailed on February 8, 2006, informing applicant that the response of December 21, 2005, did not place the application in condition for allowance. On May 22, 206, applicant filed a request for an extension of time within the fourth month, and a Request for Continued Examination (RCE). On June 16, 2006, a Notice of Improper Request for RCE was mailed noting that the RCE filed May 22, 2006, would not be entered because it was filed after the expiration of the maximum statutory period for reply to the final Office action. A Notice of Abandonment was mailed on July 3, 2006.

It is noted that another RCE was filed on July 11, 2006, and that applicant was charged twice for the RCE fee—once on July 11, 2006 and also on May 22, 2006. The amount of $790.00 will be refunded to deposit account 19-2179, in due course.

Petitioner is also advised that the period set for response to the final Office action was only extendable three additional months for a maximum statutory period for reply of six months from the mailing date of the final Office action. It is noted that petitioner was charged for a four month extension when all that was available was a three month extension. Accordingly, deposit account 19-2179 will be refunded $570.00 for the difference between the fees.

The application file is being forwarded to Technology Center 2800, GAU 2882 for further processing.

Questions regarding this decision 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
www.uspto.gov

Paper No. 042205

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA, CA 91105

JUN 2 8 2005

In re Application of:	:	
PAUL M. HAGELIN et al.	:	
Serial No.: 10/099,120	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: March 15, 2002	:	
Attorney Docket No.: **47961/SAH/A788**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed April 15, 2005.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Nanogear, Inc., at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: NANOGEAR, INC.
3337 KIFER ROAD
SANTA CLARA, CA 95051

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

LIPSITZ & MCALLISTER, LLC
755 MAIN STREET
MONROE, CT 06468

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MAY 23 2008

In re Application of	:	
Hans-Juergen Eberle, et al.	:	
Application No. 10/099,127	:	DECISION ON PETITION
Filed: March 15, 2002	:	
Attorney Docket No. HOE-683	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 11, 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 July 6, 2007. A Notice of Abandonment was mailed on January 30, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

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 appeal fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2611 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

CAMPBELL & FLORES LLP
4370 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO CA 92122

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OCT 20 2004

OFFICE OF PETITIONS

Applicant: Dong et al.
Appl. No.: 10/099,136
Filing Date: March 15, 2002
Title: COMMON LIGAND MIMICS: PSEUDOTHIOHYDANTOINS
Attorney Docket No.: 66692-041
Pub. No.: US 2004/0009527 A1
Pub. Date: January 15, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on March 15, 2004 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

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
www.uspto.gov

Paper No. 6

John A. Caccuro
9 Ladwood Drive
Holmdel, N.J. 07733

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FEB 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Wayne Harvey Knox et al. :
Application No. 10/099,180 :
Filed: March 16, 2002 :
Attorney Docket No. 48-1-5 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 22, 2003, to revive the above-identified application.

The petition is **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.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (2).

As to item (2), Effective October 1, 2003, the fees charged by the U.S. Patent and Trademark Office increased. The current fee (as a small entity) for a petition to revive on the grounds of unintentional delay is $665. Accordingly, an additional balance due of $30 is required and must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
PO Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-6906
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

Paper No. 6

John A. Caccuro
9 Ladwood Drive
Holmdel, N.J. 07733

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FEB 0 4 2004
OFFICE OF PETITIONS

In re Application of :
Wayne Harvey Knox et al. :
Application No. 10/099,180 :
Filed: March 16, 2002 :
Attorney Docket No. 48-1-5 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 22, 2003, to revive the above-identified application.

The petition is **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.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (2).

As to item (2), Effective October 1, 2003, the fees charged by the U.S. Patent and Trademark Office increased. The current fee (as a small entity) for a petition to revive on the grounds of unintentional delay is $665. Accordingly, an additional balance due of $30 is required and must be submitted.

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PO Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-6906
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

John A. Caccuro
9 Ladwood Drive
Holmdel, NJ 07733

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MAR 03 2004
OFFICE OF PETITIONS

In re Application of
Wayne Harvey Knox et al.
Application No. 10/099,180
Filed: March 16, 2002
Attorney Docket No. 48-1-5

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 23, 2004, to revive the above-identified application.

The petition is Granted.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

JAN 11 2007

Paper No. 12

Lawrence E. Ashery
Ratner & Prestia
P.O. Box 980
Valley Forge, PA 19482-0980

In re Application Ogura et al..	:	
Application Number: 10/099,193	:	
Filing Date: March 13, 2002	:	ON PETITION
For: LASER-WORKING DIELECTRIC SUBSTRATE AND	:	
METHOD FOR WORKING SAME AND SEMICONDUCTOR	:	
PACKAGE AND METHOD FOR MANUFACTURING SAME	:	

This is a decision on the petition under 37 C.F.R. § 1.181, filed on September 8, 2003 requesting the Director to invoke supervisory authority to instruct the Examiner consider the claims that have been withdrawn from consideration

BACKGROUND

The Examiner issued an Election of Species Requirement on November 8, 2002. In this requirement, seven patentably distinct species of the claimed invention where identified. In addition, the Examiner stated the following:

> **"Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.**
>
> Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added.

An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a)."

On December 16, 2003, applicant filed a response to the election requirement. Applicant elected embodiment I (claims 1-5 readable thereon) with traverse. In addition, applicant stated that claim 1 is a generic claim encompassing Embodiments I-IV. Applicant then states, " Because claim 1 is a generic claim to which claims 2-4, 14-18, 23-25 and 42-44 depend, applicant contends all of these claims should be examined with the examination of generic claim 1."

In the Office Action mailed on June 5, 2003, the Examiner noted the response to the election requirement. The Examiner stated "The traversal is on the ground(s) that claim 1 is generic. This is found persuasive. Claim 1 is generic. Claims 6-44 are withdrawn from consideration." In the Office action, claims 1-5 where rejected under prior art.

In the petition, Applicant states "As Applicants' traversal was found persuasive, claims 6-44 should not have been withdrawn. Consideration of claims 6-9, 14-33 and 42-44 is respectfully requested."

REGULATION AND PRACTICE

37 C.F.R § 1.141 Different inventions in one national application.

(a) Two or more independent and distinct inventions may not be claimed in one national application, ex-cept that more than one species of an invention, not to exceed a reasonable number, may be specifically claimed in different claims in one national application, provided the application also includes an **allowable claim** gen-eric to all the claimed species and all the claims to species in excess of one are written in dependent form (§ 1.75) or otherwise include all the limitations of the generic claim.

OPINION

It is note that applicant has not traversed the fact that there are claims directed towards multiple patentably distinct inventions in this application. The only traversal was to the generic nature of claim 1. In view of this traversal the Examiner determined that claim 1 was in fact generic. In addition, the Examiner determined that claim 1 was not allowable and rejected it under 102(a).

Upon the **allowance of a generic claim**, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. However, the generic claim in this case has not been allowed and applicant is not entitled to the consideration of the additional claims. Therefore, the Petition for consideration of the additional claims is **DENIED**.

Conclusion

This case is being forwarded to the Examiner for consideration of the Amendment filed on September 8, 2003. The Examiner will address the issue of rejoining the withdrawn claims if and when there is an allowable generic claim in the case.

Sharon 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. 4

MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

COPY MAILED

MAY 1 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Chia-Chee Kuan et al	:	
Application No. 10/099,222	:	DECISION GRANTING PETITION
Filed: March 14, 2002	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 529252000400	:	

This is a decision on the petition, filed by facsimile transmission on May 2, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on March 10, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

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 2662 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 11

Beyer Weaver & Thomas LLP
PO Box 778
Berkeley, CA 94704-0778

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JUL 0 8 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jengyi Yu et al. :
Application No. 09/099,232 :
Filed: March 13, 2002 :
Attorney Docket No. NOVLPO72 :

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 September 13, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on December 14, 2002.

The application is being forwarded to Technology Center AU 2812 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/20/05

TO SPE OF : ART UNIT **OPLA-PTA**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/099278 6900371

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

SPE — **Art Unit** 1652

UNITED STATES 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. 6949854
Issue Date: September 27,2005
Application No. 10099280
Filed: March 15,2002
Attorney Docket No. 6773.P001

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 3,2009 ,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 November 3,2009 . 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)
6949854	2005-09-27	10099280	2002-03-15	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/Michael Schlicht/	Date (YYYY-MM-DD)	2009-11-03
Name	Michael Schlicht		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 9

GEORGE O. SAILE & ASSOCIATES
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

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JUL 2 5 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Weedie Pacio Aquien, et al. :
Application No. 10/099,284 :
Filed: March 15, 2002 :
Attorney Docket No. ST00-005B :

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 2003, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

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) two (2).

On July 23, 2003, the undersigned telephoned petitioner Stephen B. Ackerman in reference to an authorization to pay the petition fee. Mr. Ackerman informed the Examiner that a fax would be forthcoming. To date, no fax or documents regarding the authorization to pay the petition fee have been received by the USPTO. The application cannot be revived until such statement is received.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Crystal Plaza 4, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

By facsimile: (703) 308-6916
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES 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

GEORGE O. SAILE & ASSOCIATES
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

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AUG 13 2003

OFFICE OF PETITIONS

In re Application of	:	
Weedie Pacio Aquien, et al.	:	
Application No. 10/099,284	:	ON PETITION
Filed: March 15, 2002	:	
Attorney Docket No. ST00-005B	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 6, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 28, 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 November 29, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to Technology Center 2800, Art Unit 2814 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. 6

JOHN S. PRATT
KILPATRICK STOCKTON
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

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APR 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Toshiya Nonaka et al :
Application No. 10/099,294 : ON PETITION
Filed: March 13, 2002 :
Attorney Docket No. 44471/271491 :
(13700)

This is a decision on the petition under 37 CFR 1.137(b), filed April 16, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed April 15, 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 16, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 26 2005

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:
Myers et al.	:
Serial No.: 10/099,313	: PETITION DECISION
Filed: March 14, 2002	:
Attorney Docket No.: 14058-015910US	:

This is in response to the petition under 37 CFR § 1.181, filed July 25, 2005, requesting withdrawal of Finality of the last Office action.

BACKGROUND

A review of the file history shows that the examiner mailed a non-final Office action to applicant on April 14, 2004, setting forth a three-month shortened statutory period for reply in which claims 5 and 7 were rejected under 35 USC 112, second paragraph, as being indefinite. Claims 1-8 and 26-35 were rejected under 35 USC 103(a) as being obvious over Chatterjie et al taken with Qureshi et al. The examiner also rejected claims 7-8 and 35 under 35 USC 103 (a) as being unpatentable over Chatterjie et al taken with Qureshi et al as applied to claims 1-7 above, and further in view of Myers et a.

Applicants replied on September 30, 2004, cancelling claims 1 and 24-52 and adding new claims 53-55. Applicants traversed the rejection under 35 U.S.C.112, second paragraph with respect to the language "M9 medium" set forth claim 5 with a statement that the recited medium is a well known commercial medium. Applicants amended claim 7 to overcome the 112 rejection. Applicants also traversed the 35 U.S.C. 103 rejection of claims 1-8 and 26-35 over Chatterjee et al. taken with Qureshi; and the 35 U.S.C. 103 rejection of claims 7-8 and 35 over Chatterjee et al. taken with Quereshi and further in view of Myers et al. indicating that the references fail to teach that an advantage in LPS production could be obtained by a great lengthening of the stationary phase to a minimum of about five hours. Applicants also argued that the unobviousness of making such a change, to a period of at least about 5 hours, is further supported by the results obtained.

The examiner mailed a final Office action to applicants on November 1, 2004, setting a three-month shortened statutory period for reply. The examiner repeated the 35 U.S.C. 112, second

paragraph rejection from the previous Office action with respect to claim 5 stating that the term "M9" is not an art recognized term and is not standardized. The examiner under 35 U.S.C. 103 again rejected claims 1-8 and 26-35 over Chatterjee et al. taken with Qureshi; and rejected claims 7-8 and 35 over Chatterjee et al. taken with Quereshi and further in view of Myers et al. both for the same reasons set forth in the previous rejections. The examiner stated that the arguments presented were not commensurate in scope with the claims.

On March 1, 2005, applicants filed an amendment after final canceling claim 5. Applicants again argued that the combination of references failed to teach the disclosed invention of maintaining a stationary phase longer than 30 minutes with any desired result at all, least of all with enabling the production of better quality MLA and 3D-MLA, and certainly not for maintaining the stationary phase for at least about 5 hours. Applicants also filed an IDS for consideration.

The examiner mailed an advisory action to applicants on March 17, 2005 indicating that claims 1-4, 6-8, and 26-35 remained rejected but that the proposed amendment canceling claim 5 would be entered for purposes of appeal. The examiner also stated that the IDS filed March 1, 2005 failed to comply with 37 CFR 1.97 (d) because it lacked a statement as specified in 37 CFR 1.97 (e) and would not be considered.

On May 2, 2005, applicants filed a Request for Continued Examination. Applicants also requested consideration of the IDS filed March 1, 2005 and indicated a declaration under 37 CFR 1.132 would be filed shortly.

The examiner mailed a final rejection to applicants on June 21, 2005 for essentially the same reasons as stated in the last Office action. The examiner also stated there is no clear evidence of record to demonstrate the process as claimed broadly does, in fact produce "better quality LPS, Lipid A, MLA, and 3D-MLA" as alleged, wherein any deep rough mutant is maintained in stationary phase for at least 5 hours. The examiner goes on to state that the invention as claimed provides for no correlation between the process and any unexpected results touted.

Applicants filed this petition on July 25, 2005 requesting that the finality of the Office action of June 21, 2005 be withdrawn on the basis that the examiner should consider the IDS submitted with the previous response, and to comment on it to the extent appropriate. Applicants also submit that in the current Office action, the examiner is questioning for the first time whether the data presented in the application demonstrates any improvement over the prior art and that they may need to submit a declaration but that with current after-Final practice, it is a distinct possibility that such a declaration might be refused entry. As a result, applicants request that the finality of the last Office action be withdrawn. Finally, in the RCE, applicants stated that a declaration would be filed in support of the applicability of the claimed process to the scope of organisms claimed and that the current final rejection was issued less than two months after the filing of the RCE, and did not permit applicants sufficient time to file such a declaration.

DISCUSSION

Applicants arguments have been carefully considered but are not persuasive that the examiner has erred in making the Office action of June 21, 2005 final. While the examiner has not considered the IDS to date, applicants themselves stated that the sole reference on the IDS was submitted to merely help the examiner in understanding some of the concepts of the application. Therefore, no reason can be seen in withdrawing the finality to have the IDS considered at this time. Applicants also state that the examiner is questioning for the first time whether the data presented in the application demonstrates any improvement over the prior art. This is not agreed with as the examiner clearly raised this issue in the Office action made final on November 1, 2004 and again in the Office action of March 17, 2005. Note specifically where the examiner states that the arguments are not commensurate in scope with the claims and that applicants have not demonstrated that the results obtained for one strain of *Salmonella minnesota* can be extrapolated to any strain of deep rough mutant bacteria solely by lengthening the stationary phase to "at least about 5 hours". The examiner then goes on to state that the scope of the showing must be commensurate with the scope of claims to consider evidence probative of unexpected results, for example. This is clearly an invitation to present a declaration. Finally, applicants argued that in the RCE they indicate a declaration would be filed and that they did not have ample time to file a declaration since the current final rejection was issued less than two months after the filing of the RCE. This is not agreed with since the examiner indicated in the Office actions of November 1, 2004 and March 17, 2005 that a showing of unexpected results was absent. Therefore, applicants have had ample time to file a declaration. Finally, current practice is to admit and consider declarations that put an application in condition for allowance even if submitted when an application is under final rejection.

DECISION

The petition is **DENIED**. Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IP Administration
Legal Department, M/S 35
Hewlett-Packard Company
PO Box 272400
Fort Collins, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
Dove	:	GRANT OF PETITION
Application No. 10/099,372	:	UNDER 37 CFR 1.78(a)(3)
Filed: March 12, 2002	:	
Attorney Docket No. 100202192-1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 18, 2004, to accept an unintentionally delayed claim for the benefit of prior-filed application nos. 09/691,726 and 09/190,695 set forth in the amendment filed June 1, 2004.

The petition is **granted**.

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time ended on July 12, 2002. The priority claims at issue were not made by this date. However, petitioner has submitted a petition under 37 CFR 1.78(a)(3).

37 CFR 1.78(a)(3) states,

If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;
(ii) The surcharge set forth in § 1.17(t); and
(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section 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.

Petitioner has satisfied the above requirements for relief under 37 CFR 1.78(a)(3).

The granting of this petition is not a determination that petitioner is actually entitled to the benefit of the filing date of the prior-filed applications, but is only a determination that the Office will allow petitioner to file an untimely claim for priority. The examiner will, in due course, consider any priority claims and determine the extent to which the application is entitled to an earlier filing date.

A corrected Filing Receipt, which includes the priority claims, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2662 for appropriate action on the amendment submitted June 1, 2004, including consideration by the examiner of the claims for priority. **The examiner should consider the priority claims and determine the extent to which the application is entitled to an earlier filing date based on the prior-filed applications.**

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

Attached: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

BOZICEVIC, FIELD & FRANCIS LLP
200 MIDDLEFIELD RD
SUITE 200
MENLO PARK CA 94025

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FEB 05 2003

OFFICE OF PETITIONS

In re Application of :
Dennis A. Carson et al. :
Application No. 10/099,379 : DECISION DISMISSING
Filed: March 12, 2002 : PETITION
Attorney Docket No. UCAL170CON7 :

This is a decision on the petition filed on June 14, 2002, under 37 CFR 1.182 in response to the Notice of Omitted Items mailed April 16, 2002.

The application was filed March 12, 2002. On April 16, 2002, however, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of March 12, 2002, but that, Pages 27 and 30 of the specification (description and claims) appeared to have been omitted from the application.

In response, on June 14, 2002, the present petition was filed. Petitioner argues that the present application is a continuation of 09/265,191 filed March 10, 1999, which is a continuation of 08/593,554 filed January 30, 1996. Petitioners further argue that the entire disclosure of application 08/593,554 was incorporated by reference into the instant continuation application. And, since the continuation specification is a true copy of application 08/593,554, the specification should be deemed to have been filed with this application. This argument is persuasive. In a continuation application filed under 1.53(b), an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. See MPEP 201.06(c). A review of the application-as-filed reveals that the instant continuation application transmittal contained such a statement.

However, the "Notice" mailed on April 16, 2002, was correct in stating that Figure 27 and 30 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn. The petition fee will not be

refunded because there was no error on the part of the USPTO.

Accordingly, the petition is **DISMISSED**

Obviously, in view of the incorporation by reference in the prior application, pages 27 and 30 of the specification is not new matter if it was a part of the disclosure of the prior application. Applicants may file an amendment to include pages 27 and 30 of the specification without a petition.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of March 12, 2002, using the application papers received in the Office on that date and pages 27 and 30 of the specification submitted on petition filed April 16, 2002. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

BERNHARD KRETEN
SUITE 245
77 CADILLAC DRIVE
SACRAMENTO, CA 95825

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OFFICE OF PETITIONS

In re Application of	:	
Gary J. Reed	:	
Application No. 10/099,400	:	DECISION GRANTING PETITION
Filed: March 15, 2002	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 32042-pa	:	

This is a decision on the petition, filed December 23, 2002 and supplemented on January 2, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on October 15, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of September 18, 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 3732 to await a reply to the nonfinal Office action mailed December 19, 2002.

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
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In re Patent No. 6800079
Issue Date: October 5,2004
Application No. 10099400
Filed: March 15,2002
Attorney Docket No. 32042-PA

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 16,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6800079	2004-10-05	10099400	2002-03-15	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/ Gary J. Reed/	Date (YYYY-MM-DD)	2010-02-12
Name	Gary J. Reed		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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FEB 1 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Qin Zhang et al	:	
Application No. 10/099,413	:	DECISION GRANTING PETITION
Filed: March 15, 2002	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 23001-06671	:	

This is a decision on the petition, filed January 27, 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 August 9, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of May 22, 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 2874 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 101904

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

JAN 19 2005

In re Application of:	:	
QIN ZHANG *et al.*	:	
Serial No.: 10/099,413	:	DECISION ON REQUEST TO WITHDRAW
Filed: March 15, 2002	:	FROM RECORD
Attorney Docket No.: **23001-06671**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed September 27, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Michael W. Farn, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Josh Moser, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: SHERWOOD PARTNERS, INC.
101 UNIVERSITY AVENUE, SUITE 100
PALA ALTO, CA 94301

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

JUN - 5 2003

Paper No. 5

In re Application of	:	
William Hubbs et al.	:	
Serial No. 10/099,423	:	DECISION ON PETITION
Filed: March 15, 2002	:	TO MAKE SPECIAL
For: PRODUCT SHIPPING AND DISPLAY	:	
CARTON	:	

Applicant's petition, filed May 27, 2003, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Marshall, Gerstein and Borun
6300 Sears Tower, 233 South Wacker
Chicago, IL 60606-6357

OIPE JC99
AUG 2 6 2002
PATENT & TRADEMARK OFFICE

MP/$
#4

00866.000161.

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	:	Examiner: NOT YET KNOWN
WERNER LAUTENSCHLÄGER	)	
	:	Group Art Unit: 3627
Application No.: 10/099,443	)	
	:	
Filed: March 15, 2002	)	
	:	
For: DEVICE FOR CLOSING A POT-LIKE DIGESTION VESSEL	) :	August 22, 2002

The Commissioner for Patents
Washington, D.C. 20231

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on August 22, 2002
(Date of Deposit)

WILLIAM J. BRUNET (REG. NO. 20,452)
(Name of Attorney for Applicant)

William J. Brunet — August 22, 2002
Signature — Date of Signature

PETITION UNDER 37 C.F.R. § 1.136(a)

Sir:

Applicant petitions the Commissioner for Patents to extend the time for response to the Office Action dated April 22, 2002 for two months from June 22, 2002 to August 22, 2002

Submitted herewith is a check for $200.00 to cover the fee for the extension under 37 C.F.R. § 1.17. Any deficiency in or overpayment of this fee should be charged or credited to Deposit Account No. 06-1205. A duplicate copy of this petition is enclosed.

08/28/2002 MAHMED1 00000030 10099443

01 ~~FC:203~~ ~~55.00 OP~~
02 FC:216 200.00 OP

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

William J. Brunet
Attorney for Applicants
Registration No. 20,452

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

NY_MAIN 285303 v 1

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEED INTELLECTUAL PROPERTY LAW
GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

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MAR 0 1 2006

OFFICE OF PETITIONS

In re Application of

Southwell, et al.

Application No. 10/099,455

Filed: March 14, 2002

Attorney Docket No. 858063.460

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed December 13, 2005.

The petition is **granted**.

This application was held abandoned on August 5, 2005, after no reply was received to the non-final Office action mailed May 4, 2005. The notice set forth a shortened statutory period for reply of three months from its mailing date. The instant petition was filed on December 13, 2005. Petitioner maintains that the non-final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded Technology Center 2100, GAU 2192 for further processing.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

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OFFICE OF PETITIONS

In re Application of :
Southwell, et al. :
Application No. 10/099,455 : ON PETITION
Filed: March 14, 2002 :
Attorney Docket No. 858063.460

This is regarding the petition under 37 CFR 1.181 filed on December 5, 2006, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on September 8, 2006, after no response was received to the Notice of Allowability mailed June 7, 2006. The notice allowed a non-extendable statutory period for reply of three months from its mailing date. A Notice of Abandonment was mailed on October 6, 2006.

The instant petition was filed on December 5, 2006. Petitioner maintains that the holding of abandonment should be withdrawn because Examiner Chuck Kendall of Technology Center 2100, GAU 2192, told petitioner that corrected drawings were not required, notwithstanding the Notice of Allowability mailed June 7, 2006. A review of the application file did not reveal any communication withdrawing the Notice of Allowability.

Petitioner's argument has been considered, but is not persuasive. Further to this point, 37 CFR 1.2 provides that:

> 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.

Accordingly, without any written notice from Examiner Kendall withdrawing the Notice of Allowability that has been made of record in the application, the requirement for corrected drawings of the Notice of Allowability mailed June 7, 2006, stand and petitioner was required to file a timely and proper response thereto. The petition is dismissed, accordingly.

Petitioner may file a petition under 37 CFR 1.137(b) to revive the application. The fee for the petition is $1500.00 large entity or $750.00 for a small entity.

Further correspondence with respect to this matter should be addressed as follows:

By mail: 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 decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

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OFFICE OF PETITIONS

In re Application of

Southwell, et al.

Application No. 10/099,455

Filed: March 14, 2002

Attorney Docket No. 858063.460

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), February 6, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely file corrected drawings as required by the Notice of Allowability (the "Notice") mailed June 7, 2006. 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 September 8, 2006. A Notice of Abandonment was mailed on October 6, 2006.

Corrected drawings were received on October 6, 2006.

The application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

1600

PTO/SB/21 (08-00)

Please type a plus sign (+) inside this box → [+]

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.

OIPE AUG 15 2002

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/099,459
Filing Date	March 12, 2002
First Named Inventor	Quake, Stephen
Group Art Unit	1623
Examiner Name	Not yet assigned
Attorney Docket Number	20174C-008300US
Total Number of Pages in This Submission	1

COPY OF PAPERS ORIGINALLY FILED

ENCLOSURES *(check all that apply)*

- [ ] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment / Response
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [x] Response to Missing Parts/ Incomplete Application dtd 7/26/02
  - [ ] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition Routing Slip (PTO/SB/69) and Accompanying 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)*:

Return Postcard
Copy of Notice of Incomplete Reply dtd 7/26/02
Copy of Return Receipt Postcard dtd 6/18/02
Copy of Transmittal Letter – Response to Notice of Missing Parts dtd 6/18/02
Copy of Notice of Missing Parts dtd 4/19/02
Copy of Executed Declaration and Power of Attorney filed 6/18/02
Copy of Substitute Drawings filed 6/18/02

RECEIVED AUG 30 2002 TECH CENTER 1600/2900

Remarks: The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm and Individual name	Townsend and Townsend and Crew LLP Hugh Wang Reg. No. 47,163
Signature	
Date	August 8, 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: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: August 8, 2002

Typed or printed name	Kathy Johnston		
Signature		Date	August 8, 2002

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 send to the Chief Information Officer, U.S. Patent and Trademark

OIPE AUG 15 2002

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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
10/099,459	03/12/2002	Stephen Quake	20174C-008300US

OIPE AUG 15 2002 PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 6668

FORMALITIES LETTER

OC000000008525025

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 07/26/2002

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 06/24/2002 to the Notice to File Missing Parts (Notice) mailed 04/19/2002 and it has been entered into the nonprovisional application. The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application.

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);

A copy of this notice MUST be returned with the reply.

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Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
AUG 3 0 2002
TECH CENTER 1600/2900

In re application of:

Quake et al.

Application No.: 10/099,459

Filed: March 12, 2002

For: METHODS AND APPARATUS FOR ANALYZING POLYNUCLEOTIDE SEQUENCES BY ASYNCHRONOUS BASE EXTENSION

Examiner: Not yet assigned

Art Unit: 1623

RESPONSE TO NOTICE OF INCOMPLETE REPLY

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the Notice of Incomplete Reply mailed July 26, 2002. The Notice requests that Applicants submit an Oath/Declaration and substitute draws.

Applicants respectfully note that in the Response to Notice of Missing Parts filed by Applicants on June 18, 2002, Applicants have already submitted properly executed inventors' Declaration and the required substitute drawings. Applicants attach herewith a copy of the return postcard which was date-stamped by the U.S. Patent and Trademark Office. This postcard indicates that the declaration and substitute drawings have been timely submitted.

Applicants also enclose herewith copies of the previously submitted Response to Notice of Missing Parts, including the executed Declaration and the substitute drawings. Entry of these submissions is respectfully requested.

COPY OF PAPERS ORIGINALLY FILED

PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,

Hugh Wang
Reg. No. 47,163

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
HW:ksj
PA 3241496 v1

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AUG 1 5 2002
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UNITED STATES PATENT AND TRADEMARK OFFICE

Please stamp your date of receipt of the following documents and return to addressee:

First Class Mail Date: June 18, 2002
File No.: 20174C-008300US
Application No.: 10/099,459
Attorney: HW/ksj

1. Transmittal Letter – Response to Notice of Missing Parts (2 pages);
2. Fee Transmittal (1 page);
3. Copy of Notice of Missing Parts (2 pages);
4. Declaration and Power of Attorney (in counterparts—5 pages); and
5. Drawings (15 sheets).

PA 3226486 v1

OIPE JC109
JUN 2 4 2002
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JUL 1 7 2002

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Attn: Box Missing Parts
Washington, D.C. 20231

On June 18, 2002

TOWNSEND and TOWNSEND and CREW LLP

By: Kathy

PATENT
Attorney Docket No.: 20174C-008300US
Client Reference No.: CIT-3412

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Quake et al.

Application No.: 10/099,459

Filed: March 12, 2002

For: METHODS AND APPARATUS FOR ANALYZING POLYNUCLEOTIDE SEQUENCES BY ASYNCHRONOUS BASE EXTENSION

Examiner: Not yet assigned

Art Unit: 1623

TRANSMITTAL LETTER – RESPONSE TO NOTICE OF MISSING PARTS

RECEIVED AUG 3 0 2002 TECH CENTER 1600/2900

Attn: Box Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Pursuant to the Notice to File Missing Parts of Nonprovisional Application, dated April 19, 2002, enclosed are the following to be made of record in the above-identified application:

1) Fee Transmittal
2) Copy of Notice of Missing Parts
3) Executed Declaration and Power of Attorney
4) Drawings
5) Return Receipt Postcard

Please charge Deposit Account No. 20-1430 for the following fees:

COPY OF PAPERS ORIGINALLY FILED

Small Entity:	(a)	Filing Fee (§ 1.16(a)) (Small Entity)		$370.00
	(b)	Excess Claims Fees (§ 1.16(b), (c)):		
		28 - 20 = 8	x $9.00 =	$72.00
		3 - 3 = 0	x $42.00 =	$0.00
	(c)	Missing Parts Surcharge		$65.00
		TOTAL FEES TO BE CHARGED		$507.00

The Commissioner is hereby authorized to charge any additional fees associated with this paper or during the pendency of this application, or credit any overpayment, to Deposit Account No. 20-1430.

Respectfully submitted,

Hugh Wang
Reg. No. 47,163

Customer No. 20350

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 415 576-0300
HW:ksj

PA 3226485 v1

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OIPE JC109 AUG 15 2002 PATENT & TRADEMARK OFFICE

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 ($) 507

Complete if Known	
Application Number	10/099,459
Filing Date	March 12, 2002
First Named Inventor	Quake, Stephen
Examiner Name	Not yet assigned
Group Art Unit	1623
Attorney Docket No.	20174C-008300US

COPY OF PAPERS ORIGINALLY FILED

COPY

METHOD OF PAYMENT *(check all that apply)*

☐ Check ☐ Credit Card ☐ MoneyOrder ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number: 20-1430

Deposit Account Name: Townsend and Townsend and Crew 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	370
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) ($)370

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

			Extra Claims		Fee from below		Fee Paid
Total Claims	28	-20**	= 8	X	$9	=	$72
Independent Claims	3	-3**	= 0	X	$42	=	$0
Multiple Dependent				X		=	

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) ($)72

**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
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 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	
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	Petitions related to provisional applications	
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)** ($)65

RECEIVED AUG 30 2002 TECH CENTER 1600/2900

SUBMITTED BY				Complete *(if applicable)*	
Name (Print/Type)	Hugh Wang	*Registration No. (Attorney/Agent)*	47,163	*Telephone*	650-326-2400
Signature				*Date*	June 18, 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, 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. PA 3230184 v1

OIPE JC109
AUG 1 5 2002
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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
10/099,459	03/12/2002	Stephen Quake	20174C-008300US

CONFIRMATION NO. 6668

FORMALITIES LETTER

OC000000007914236

COPY

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 04/19/2002

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).

RECEIVED
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TECH CENTER 1600/2900

- The statutory basic filing fee is missing.
  Applicant must submit $ **370** *to complete the basic filing fee for a small entity.*
- Total additional claim fee(s) for this application is $72.
  - **$72** for **8** total claims over 20.
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $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 $ 507.**

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);
- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May

15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Christopher H. Chung
PROSKAUER ROSE L.L.P.
One International Place
14th Floor
Boston, Massachusetts 02110

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Stephen QUAKE, et al. :
Application No. 10/099,459 :
Filed 12 March 2002 :
Attorney Docket No.: HEL-911 :

DECISION ONPETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed 01 July 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed 29 November 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b). The amendment submitted on 31 May 2005 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed 24 June 2004. Therefore, as no Notice of Appeal (and appeal fee), request for Continued Examination (RCE) or a continuing application was timely filed. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on 30 May 2005.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply and fee under 37 CFR 1.111 in the form of a Request for Continued Examination, (2) the petition fee for a small entity, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of 29 November 2004 is accepted as having been unintentionally delayed.

As authorized in the petition, the $750.00 petition fee for a small entity under 37 CFR 1.137(b) and 1.17(m) has been charged to Deposit Account No. 50-3081.

The matter is being referred to Technology Center Art Unit 1634.

Telephone inquiries concerning this decision should be directed to Nguyen Ngoc-Ho at (571) 272-3290.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

NNH/WL:hn

UNITED STATES PATENT AND TRADEMARK OFFICE

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NUTTER MCCLENNEN & FISH
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

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AUG 0 4 2004

OFFICE OF PETITIONS

In re Application of	:	
John H. Oates	:	
Application No. 10/099,471	:	NOTICE
Filed: March 14, 2002	:	
Attorney Docket No. 0102323-00093	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This matter is being referred to Technology Center AU 2634.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Douglas A. Chaikin, Esq.
Peninsula IP Group
A Professional Law Corporation
26150 Bucks Run
Corral de Tierra CA 93908

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NOV 2 1 2007

OFFICE OF PETITIONS

In re Application of :
Waschura et al. :
Application No. 10/099487 :
Filing or 371(c) Date: 03/15/2002 : ON PETITION
Attorney Docket Number: WASC1823 :

This is a decision on the third petition to revive the application under 37 CFR 1.137(a), filed September 5, 2007, to revive the above-identified application. The petition is treated under the unintentional provisions of 37 CFR 1.137(b)[1]. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed June 2, 2006. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on September 3, 2006. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

The present petition

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay[2]. Accordingly, the reply is accepted as having been unintentionally delayed.

[1] The petition fee submitted, $750.00, is the fee for a petition to revive based upon unintentional delay. Moreover, the petition does not include a showing of unavoidable delay as required by 37 CFR 1.137(a). As such, the petition is being treated under the unintentional standard as provided for in 37 CFR 1.137(b). If this is an incorrect treatment of the petition, Petitioner must notify this Office immediately.

[2] 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

This application is being referred to Technology Center Art Unit 2128 for processing of the Amendment filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

---

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.

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Paper No. 9

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
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OFFICE OF PETITIONS

ON PETITION

In re Application of
Oates, John H.
Application No. 10/099,536
Filed: March 14, 2002
Attorney Docket No. 102323-95

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 Paralegal Liana Chase at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to (571) 272-3282.

This file is being forwarded to Technology Center 2600 for further examination on the merits.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of :
John H. Oates :
Application No. 10/099,543 :
Filed: March 14, 2002 :
Attorney Docket No. 0102323-00094 :

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 undersigned at (703) 305-8859.

This file is being referred to Technology Center AU 2631.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 9

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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DEC 1 2 2002

OFFICE OF PETITIONS

In re Application of	:
John Oates et al	:
Application No. 10/099,545	: DECISION GRANTING
Filed: March 14, 2002	:STATUS UNDER 37 CFR 1.47(a)
For: WIRELESS COMMUNICATIONS SYSTEMS AND METHODS FOR NONVOLATILE STORAGE OF OPERATING PARAMETERS FOR MULTIPLE PROCESSOR BASED MULTIPLE USER DETECTION	:

This is in response to the petition under 37 CFR 1.47(a), filed November 19, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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 regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center 2600.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
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DEC 1 2 2002

OFFICE OF PETITIONS

PAUL E. CANTRELL
15 PRESCOTT DRIVE
CHELMSFORD, MA 01863

In re Application of
John H. Oates; Steven R. Imperiali; Alden J. Fuchs; Kathleen J. Jacques; Jonathan E. Greene; William J. Jenkins; Frank P. Lauginiger; David E. Majchrzak; Paul E. Cantrell; Mirza Cifric; Ian N. Dunn; Michael J. Vinskus
Application No. 10/099,545
Filed: March 14, 2002
For: WIRELESS COMMUNICATIONS SYSTEMS AND METHODS FOR NONVOLATILE STORAGE OF OPERATING PARAMETERS FOR MULTIPLE PROCESSOR BASED MULTIPLE USER DETECTION

Dear Mr. Cantrell:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Nutter, McClennen & Fish LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2604

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DAVID J. POWSNER
NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210

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AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of :
Randall G. Banton et al :
Application No. 10/099,545 :
Filed: March 14, 2002 :
Attorney Docket No. 0102323-0102

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 AU 2113 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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AUG 0 6 2004

OFFICE OF PETITIONS

NOTICE

In re Application of :
John H. Oates et al :
Application No. 10/099,546 :
Filed: March 14, 2002 :
Attorney Docket No. 0102323-00111 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the undersigned at (703) 305-8859.

This file is being forwarded to Technology Center Art Unit 2631.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

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WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

In re Application of	:	
John H. Oates et al	:	
Application No. 10/099,546	:	DECISION GRANTING PETITION
Filed: March 14, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 102323-0111	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of July 3, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

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
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3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL, MN 55133-3427

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JUL 14 2004

OFFICE OF PETITIONS

In re Application of :
Dean R. Duffy :
Application No. 10/099,548 : ON PETITION
Filed: March 14, 2002 :
Attorney Docket No. 56642US002

This is a decision on the petition, filed June 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 1724 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).

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

KENNETH S. ROBERTS
ORRICK HERRINGTON & SUTCLIFFE LLP
4 PARK PLAZA, SUITE 1600
IRVINE, CA 92614-2558

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NOV 2 7 2002

OFFICE OF PETITIONS

In re Application of	:	
Takumi Nonaka	:	
Application No. 10/099,560	:	NOTICE
Filed: March 14, 2002	:	
Attorney Docket No. 708493.22	:	

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Thomas Andrew STRASSER, et al	:	
Application No. 10/099,561	:	DECISION ON PETITION
Filed: March 15, 2002	:	
Attorney Docket No. PH01-00-04A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 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, May 12, 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 August 13, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2613 for appropriate action by the Examiner in the normal course of business on the reply received March 24, 2008.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

ATTN: ANN M MUETING
MUETING RAASCH & GEBHARDT PA
PO BOX 581414
MINNEAPOLIS MN 55458

COPY MAILED

APR 2 5 2003

OFFICE OF PETITIONS

Applicant: Cosgrove
Appl. No.: 10/099,573
Filing Date: March 13, 2002
Title: USE OF ALPHA1BETA1 INTEGRIN RECEPTOR INHIBITORS AND TGF-BETA1 INHIBITORS IN THE TREATMENT OF KIDNEY DISEASE
Attorney Docket No.: 249.0001 0131
Pub. No.: US 2002/0094956 A1
Pub. Date: July 18, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on August 20, 2002 for the above-identified application.

The request is DISMISSED.

Applicant request that the application be republished because the patent application publication contains an error in the filing date, as the filing date is March 13, 2002 not March 12, 2002, which is on the front page of the publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The error in the filing date on the first page of the publication is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the filing date is not a material mistake because the application is a continuation of several earlier pending U.S. applications, one of which was still pending on March 13, 2002, thus the earliest effective U.S. filing date and the 35 U.S.C. 102(e) date of the application is at least April 15, 1999. Therefore, the error in the filing date on the front page of the publication does not 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. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published.

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The application is being forwarded to Technology Center 1600 to await further examination in due course.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and any question or request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington DC 20231

By facsimile: 703-305-8568

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark Polutta
Legal Advisor
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
www.uspto.gov

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

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JUN 03 2005

OFFICE OF PETITIONS

In re Application of
Jean-Louis Dasseux et al
Application No. 10/099,574
Filed: March 15, 2002
Attorney Docket No. 9196-0021-999

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 12, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition..

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been previously submitted;

and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicants are entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1631 for appropriate action on the amendment filed April 12, 2005, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

WARNER-LAMBERT COMPANY
2800 PLYMOUTH RD
ANN ARBOR MI 48105

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OCT 0 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Dasseux et al.	:	
Application No. 10/099,574	:	DECISION ON APPLICATION FOR
Filed: March 15, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 9196-0021-999 (PC20701B)	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed June 5, 2006. Applicants request correction of the patent term adjustment from 55 days to an estimate of 315 days solely on the basis of the Office taking in excess of three years to issue the patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentees are given **TWO 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. Patentees may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Patent Publication has been advised of this decision, so that the application can receive further processing into issuance of the patent.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 13, 2007

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No. 10/099575 patent no.7054337

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

2419

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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PATTERSON THUENTE SKAAR & CHRISTENSEN
4800 IDS CENTER, 80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of
Craig R. Horne et al
Application No. 10/099,597
Filed: March 15, 2002
Attorney Docket No. 2950.50US02

ON PETITION

This is a decision on the petition under 37 CFR 1.313, filed September 8, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 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 Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 1773 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

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

GREGG C. BENSON
PFIZER INC.
PATENT DEPARTMENT, MS 4159
EASTERN POINT ROAD
GROTON, CT 06340

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NOV 30 2004

OFFICE OF PETITIONS

In re Application of
Michael P. Deninno, et al.
Application No. 10/099,620
Filed: March 15, 2002
Attorney Docket No. PC11066AAKM

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(1), filed by facsimile transmission on November 23, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Mark J. Cohen appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Cohen desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Cohen, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a submission pursuant to 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

While the petition states "that Baker et al. discloses species...which may make one or more claims of the present application unpatentable," there is no unequivocal statement that one or more claims are unpatentable.

This decision is made without prejudice to reconsideration upon the filing of a request therefor. Petitioner is reminded that any request for reconsideration of the petition to withdraw from issue must comply with one of the reasons for withdrawal cited in 37 CFR 1.313(c) and should be filed as soon as possible to avoid issuance of the application.

In order to expedite any request for reconsideration of the petition to withdraw from issue, petitioner should submit the petition by facsimile transmission at Fax No. 571-273-0025.

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

cc: MARK J. COHEN
SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA, SUITE 300
GARDEN CITY, NY 11530

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Gregg C. Benson
Pfizer Inc.
Patent Department, MS 4159
Eastern Point Road
Groton, CT 06340

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DEC 20 2004

OFFICE OF PETITIONS

In re Application of :
Michael P. DeNinno, et al. :
Application No. 10/099,620 :
Filed: March 15, 2002 :
Attorney Docket No. PC11066AAKM :

ON PETITION

This is a decision in response to the "Request for Reconsideration..." filed December 16, 2004 requesting that the above-identified application be withdrawn from issue pursuant to 37 CFR 1.313(c)(1). The initial petition, filed November 23, 2004, was dismissed in a decision mailed November 30, 2004.

On reconsideration, the petition is **GRANTED**.

Accordingly, the above-identified application is withdrawn from issue due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

Petitioner is advised that the issue fee paid on October 25, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries should be directed to the undersigned at (571) 272-3204.

The application is being forwarded to Technology Center 1623 for consideration of the amendment filed November 23, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/099649

Paper No.: _____

DATE : ~~11/10/05~~ 11/12/05

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction on Patent No.: 6853654 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments:

Proposed corrections are not same as claims filed on 8/18/2004.

MINSUN OH HARRIS
PRIMARY EXAMINER

SPE

2828
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/22/05

Paper No.: —

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction on Patent No.: 6853654 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

See Response for C. of C. on 11/17/05

PRIMARY EXAMINER
PRIMARY SPE

2828
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date: December 7, 2005

Edwin H. Taylor
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Blvd. 7th floor
Los Angeles, CA 90025-1026

Patent No: 6853654 B2
Application No.: 10/099649
Applicant: Mark E. McDonald, et al.
Issued: February 8, 2005
Title: **TUNABLE EXTERNAL CAVITY LASER**

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 the claims, your request cannot be corrected since the proposed corrections are not the same as the claims filed on 8/18/04.

In view of the foregoing, your request in this matter 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/31/08

Paper No.: —

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/699649 Patent No: 6 853 654 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: _____

MINSUN HARVEY
PRIMARY EXAMINER

2828
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAIL Paper No. 4

FEB 24 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

McCormick, Paulding & Huber LLP
City Place II
185 Asylum Street
Hartford CT 06103-3402

In re Application of:
Douglas Trumbull
Application No. 10/099,662
Filed: March 14, 2002
For: **METHOD AND APPARATUS FOR PRODUCING DYNAMIC IMAGERY IN A VISUAL MEDIUM**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed January 3, 2003, under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. After mailing, the application will be forwarded to the examiner for immediate handling.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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AUG 1 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Knut S. Grimsrud, et. al.	:	
Application No. 10/099,691	:	ON PETITION
Filed: March 14, 2002	:	
Attorney Docket No. ITL.0808US (P14231)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 15, 2005, to revive the above-identified application.

In response to the non-final Office action mailed August 5, 2004, petitioner hereby submits $1,500 for the petition to revive fee, an amendment, and the statement of unintentional delay.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

This application is being referred to Technology Center Art Unit 2187, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,697	03/15/2002	Sridatta Viswanath	SUN-P7218	4891

58467 7590 04/29/2008
MHKKG/SUN
P.O. BOX 398
AUSTIN, TX 78767

EXAMINER
RUDY, ANDREW J

ART UNIT	PAPER NUMBER
3627	

MAIL DATE	DELIVERY MODE
04/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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FROM DIRECTORS OFFICE

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MHKKG/SUN
P.O. BOX 398
AUSTIN, TX 78767

In re Application of: Sridatta Viswanath, et al.
Application No. 10/099,697
Filed: March 15, 2002
For: LINE ITEM APPROVAL PROCESSING IN AN ELECTRONIC PURCHASING SYSTEM AND METHOD

DECISION ON PETITION TO WITHDRAW THE RESTRICTION REQUIREMENT MADE IN THE OFFICE ACTION OF SEPTEMBER 21, 2005 UNDER 37 C.F.R. 1.144

This is in response to the petition filed on March 31, 2006 under 37 C.F.R. 1.144 requesting the withdrawal of the restriction requirement made in the office action of September 21, 2005. In the restriction requirement the Primary Examiner required restriction into three groups. Group I contained claims 1-14. Group II contained claims 15-27. Group III contained groups 28-32.

A review of the file reveals that the Primary Examiner withdrew said restriction requirement and rejoined the claims upon Allowance. Claims 1-28 and 30-32 were noted as allowable pursuant to the "Notice of Allowability" mailed on November 29, 2007.

The petition is therefore **DISMISSED as moot**.

Any questions regarding this decision should be directed to Matthew S. Gart, Supervisory Patent Examiner, at (571) 272-3955.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

Msg/snm: 4/14/2008
SM

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Paper No. 10

GENERAL ELECTRIC COMPANY
3135 EASTON TURNPIKE – W3C
FAIRFIELD, CT 06431

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APR 0 1 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Regis Vaillant, et al. :
Application No. 10/099,698 :
Filed: March 13, 2002 :
Attorney Docket No. 14XZ00157 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 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 November 18, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 19, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application file is being forwarded to Technology Center 2800, Art Unit 2882 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. 8

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

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OFFICE OF PETITIONS

In re Application of	:	
Stjepan W. Andrasic et al	:	
Application No. 10/099,707	:	DECISION GRANTING PETITION
Filed: March 13, 2002	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. ALT-223	:	

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 September 11, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found in compliance with 37 CFR 1.137(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [notification of foreign filing 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 Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 21, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2816 for await a reply to the nonfinal Office action mailed March 17, 2003. Failure to timely reply thereto will again result in the abandonment of the application. for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 2 0 2004

OFFICE OF PETITIONS

Hewlett-Packard Company
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400

In re Application of :
Paul M. Hubel, et al. :
Application No. 10/099,743 : ON PETITION
Filed: March 15, 2002 :
Attorney Docket No. 10001028-1 :

This is a decision on the petition filed February 26, 2004, under 37 CFR 1.137(a), which is being treated as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181.

The petition is **GRANTED.**

A Notice of Allowance was mailed to applicant on June 27, 2003, setting a three-month statutory period within which to submit the issue fee. Petitioner submitted the issue fee transmittal, authorizing the issue fee to be charged to a deposit account, via certificate of facsimile transmission on July 30, 2003. Petitioner has provided a copy of the issue fee transmittal, as well as a copy of an "Auto-Reply Facsimile Transmission," which shows that it was received on July 30, 2003. In view thereof, the application was improperly held abandoned.

The issue fee was not charged to petitioner's deposit account when it was transmitted to the Office on July 30, 2003. The issue fee has now been charged to petitioner's deposit account as authorized in the instant petition.

37 CFR 1.137(c) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since the application is not a utility or plant application filed before June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer filed with the instant petition is unnecessary. Therefore, the fee of $110 has not been charged to

petitioner's deposit account as authorized. Additionally, the petition fee has not been charged since the application was improperly abandoned.

The application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Examination Policy

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Paper No. 5

Michael D. Stein
WOODCOCK WASHBURN LLP
One Liberty Place - 46th Floor
Philadelphia, PA 19103

MAILED

DEC 24 2003

Technology Center 2100

In re Application of:	)	
John C. Munson	)	
Application No. 10/099,752	)	**DECISION ON REQUEST FOR**
Filed: March 15, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: METHOD AND SYSTEM FOR SIMPLIFYING THE STRUCTURE OF DYNAMIC EXECUTION PROFILES	)	

This is a decision on the Request To Withdraw from Representation filed November 10, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed November 10, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: David Judson, Esquire
LOCKE LIDDELL & SAPP LLP
2200 Ross Avenue
Suite 2200
Dallas, TX 75201-6776

PET DEC

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CST

In re application of
Scott D. Redmond
Serial No. 10/099,771
Filed: March 15, 2002
For: METHOD AND APPARATUS FOR A HYDROGEN FUEL CASSETTE DISTRIBUTION AND RECOVERY SYSTEM

DECISION ON PETITION

This is a decision on the petition filed March 15, 2002 requesting that the above-identified application be granted Special Status under sections 708.02 (V) and (VI) of the MPEP and 37 CFR 1.102(c) – no fee required.

The request for Special Status is denied because no explanation has been provided as to how the invention contributes to the restoration or maintenance of one of the basic life-sustaining elements as required by MPEP 708.02(V). Also, no explanation has been provided as to how the invention contributes to (A) the discovery or development of energy resources or (B) the more efficient utilization and conservation of energy resources as required by MPEP 708.02(VI).

The petition is DENIED.

Christine Tierney
Special Program Examiner, Technology Center 1700
571-272-1055

James H. Salter
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

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KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH CA 92660

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OFFICE OF PETITIONS

In re Application of
Kim, et al.
Application No. 10/099,781
Filed: March 14, 2002
Attorney Docket No. MUTU12.001AUS
For: DOUBLE-SPIRO ORGANIC COMPOUNDS AND ORGANIC ELECTROLUMINESCENT DEVICES USING THE SAME

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed May 29, 2002, requesting in effect, withdrawal of the Notice of Incomplete Nonprovisional Application, mailed April 23, 2002 and accordation of a March 14, 2002 filing date to the above-identified application.

The application was deposited on March 14, 2002. On April 23, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on March 14, 2002 because no drawing was present, as is required by 35 USC 113.

In response to the Notice, petitioners timely filed, *inter alia*, the present petition.

It is noted that the above-identified application contains process claims. As stated in MPEP 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence.)

MPEP 601.01(f) also states that:

> A non provisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figures in the specification, but filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains process claims. Therefore, the above-identified application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g).

MPEP 601.01(g) states that if an application is filed without all of the drawing figures referred to in the specification, a "Notice of Omitted Items" is mailed indicating that the application has been accorded a filing date.

In view of the above, the "Notice" mailed April 23, 2002 was mailed in error and is hereby withdrawn. The petition is **granted**. Pursuant to petitioners' authorization, deposit account no. 11-1410 will be credited the $130.00 petition fee.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **March 14, 2002**.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

Christina Tartere Donnell for

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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Mailed: 11/23/05

In re application of	:	
Kim et al.	:	DECISION ON
Serial No. 10/099,781	:	PETITION
Filed: March 14, 2002	:	
For: DOUBLE-SPIRO ORGANIC COMPOUNDS AND	:	
ORGANIC ELECTROLUMINESCENT DEVICES	:	
USING THE SAME	:	

This is a response to the PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT filed September 8, 2004. The petitioner request that the abandonment, as set forth in the Notice of Abandonment of July 9, 2004, for failure to timely file a proper reply to the Office letter mailed September 29, 2003 be withdrawn since the applicants did timely file a reply on October 28, 2003.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the USPTO application file reveals that applicant's response was properly filed on October 28, 2003 in view of the fact that the originally filed papers were received in the USPTO October 31,2003 and have been located in the USPTO file application. A review of the evidence presented reveals that the Notice of Abandonment of July 9, 2004 was previously withdrawn and the application subsequently acted on by the Examiner. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed September 29, 2003 is hereby vacated.

In view of that fact that the abandonment was previously withdrawn and the application is now allowed, the Petition is **DISMISSED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

KNOBBE MARTENS OLSON & BEAR LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

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LSI CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS CA 95035

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OFFICE OF PETITIONS

In re Application of	:	
YANG, et al.	:	
Application No. 10/099,815	:	DECISION ON PETITION
Filed: March 13, 2002	:	
Attorney Docket No. **01-791 71767**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 27, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely pay the issue and publication fees on or before November 22, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed August 22, 2006. Accordingly, the date of abandonment of this application is November 23, 2006.

A 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. 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 petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee $1400 and publication fee $300; (2) the petition fee of $1500, (3) an adequate statement of unintentional delay.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Ting-Mao Chao appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Chao desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

It is noted that a Power of Attorney accompanied the petition on September 27, 2007. However, the power did not include a certification under 37 CFR 3.73(b).

Petitioner is reminded that 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 September 27, 2007 does not include one of the above two options.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: **TING-MAO CHAO, ESQ.**
KIRKPATRICK & LOCKHART PRESTON GATES ELLIS, LLP
55 SECOND STREET, 17TH FLOOR
SAN FRANCISCO, CA 94105

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BAKER BOTTS LLP
PATENT DEPARTMENT
98 SAN JACINTO BOULEVARD, SUITE 1500
AUSTIN, TX 78701-4039

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OFFICE OF PETITIONS

In re Application of	:
Charles L. Wallace et al	: DECISION ON PETITION UNDER
Application No. 10/099,824	: 37 CFR 1.313(a)
Filed: March 15, 2002	:
Atty Dkt No. PURIT:60555	:

This is a decision on the petition under 37 CFR 1.313(a), filed March 9, 2006, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on December 29, 2005, with the issue fee being due on or before March 29, 2006. There is no indication that the issue fee has to date been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP 706.07(h)(IX).

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

The matter is being referred to Technology Center AU 2174 for appropriate processing of the RCE filed March 9, 2006, and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

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DANITA JM MASELES
INTELLECTUAL PROPERTY COUNSEL
SCHLUMBERGER INFORMATION SOLUTIONS
SUITE 1700 5599 SAN FELIPE
HOUSTON, TX 77056

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APR 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Allen R. Harrison, et al. :
Application No. 10/099,825 :
Filed: March 15, 2002 :
Attorney Docket No. 59.0044 :

ON PETITION

This is a decision on the petition, filed January 9, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed February 28, 2005. A Notice of Abandonment was mailed on September 29, 2005.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 3625 for consideration of the amendment filed January 9, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OSHA . LIANG L.L.P. / SLB
1221 MCKINNEY STREET
SUITE 2800
HOUSTON, TX 77010

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OFFICE OF PETITIONS

In re Application of
Allen R. Harrison, et al.
Application No. 10/099,825
Filed: March 15, 2002
Attorney Docket No. 09469/108001; 59.0044

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 9, 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 an Office action mailed July 12, 2006. A Notice of Abandonment was mailed on January 24, 2007. On October 9, 2007, the present petition was filed.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3625 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

COPY MAILED

JUN 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Dasseux et al.	:	
Application No. 10/099,836	:	DECISION GRANTING PETITION
Filed: March 15, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 9196-022-999 (CAM: 305734-999021)	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/940,095, filed September 29, 1997, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 36 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 1639 for appropriate action on the amendment filed April 28, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/099,853	4/2/03	MATTI SALMI, ET AL.	944-001.065

Title: **SEPARATION OF INSTANT MESSAGING USER AND CLIENT IDENTITIES**

Art Unit	Paper Number

Correspondence Address:
FRANCIS J. MAGUIRE
WARE, FRESSOLA, VAN DER SLUYS & ADOLPHSON
755 MAIN ST., P. O. BOX 224, BRADFORD GREEN, BLDG. 5
MONROE, CT 06468

PATENT & TRADEMARK OFFICE
MAILED
JUL 09 2003
LICENSING & REVIEW

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 530,975
Grant Date: 09-Jul-03

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved
for Commissioner of Patents and Trademar

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

This license is granted under 37 CFR 5.15(a).

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

In re:	SALMI et al.	:DECISION ON REQUEST
Petition Filing date:	02 April 2003	:UNDER 37 CFR 5.25
Application No.:	10/099,853	
Docket No.:	944-001.065	

Title: SEPARATION OF INSTANT MESSAGING USER AND CLIENT IDENTITIES

This is a decision on the petition filed February 27, 2003 for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	Date
PCT	13 March 2002

Yvonne R. Abbott
Patent Examiner
(703) 308-2866

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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NOV 0 4 2002

OFFICE OF PETITIONS

WILLIAMS MORGAN & AMERSON
7676 HILLMONT
SUITE 250
HOUSTON TX 77040

In re Application of:
Gray A. Golze, Charles D. Mills,
Richard C. Wagner, Eduardo Vega,
Jr., Brian Deaton and Rajendra K.
Krishnaswamy
Application No. 10/099,860
Filed: March 15, 2002
Title of Invention:
POLYETHYLENE/LOW MOLECULAR WEIGHT
HYDROGENATED ALIPHATIC RESIN BLENDS

DECISION NOTING
JOINDER OF
INVENTOR

This is in response to the correspondence filed July 17, 2002, noting the joinder of the inventor.

A petition to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor was filed on June 18, 2002; however, before that petition could be acted upon, Petitioner filed the instant correspondence noting joinder of the inventor.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the Reconsideration of Petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Manual of Patent Examining Procedure ("MPEP"), § 409.03(j) provides that "[i]n the event the previously nonsigning inventor decides to join the application by filing an executed oath or declaration complying with 37 CFR 1.63, the oath or declaration will be placed in the application file."

Accordingly, the declaration has been entered and made of record. The assignment of inventor Eduardo Vega, Jr. has been forwarded to the assignment branch for entry and recordation.

This application is being forwarded to Technology Center AU 1713 for examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES
PATENT AND
TRADEMARK OFFICE

APR 9 2003

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

#7

DANN, DORFMAN, HERRELL & SKILLMAN
SUITE 720
1601 MARKET STREET
PHILADELPHIA, PA 19103-2307

In re Application of	:	
John M. Barker	:	
Serial No.: 10/099,864	:	DECISION ON PETITION
Filed: March 13, 2002	:	
For:Pre-filled Safety Vial Injector	:	

This is in response to applicants' petition filed April 22, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the merits as it relates HIV/AIDS.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John E. Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

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OFFICE OF PETITIONS

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

In re Application of
Oates, et al.
Application No.: 10/099,883
Filed: March 14, 2002
Attorney Docket No.:0102323-00099
For: WIRELESS COMMUNICATIONS SYSTEMS AND METHODS FOR MULTIPLE PROCESSOR BASED MULTIPLE USER DETECTION

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed December 12, 2002.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on March 14, 2002 without an executed oath or declaration and filing fees. Accordingly, on May 9, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and filing fees, and a surcharge for their late filing.

In response, on December 12, 2002 (certificate of mailing date December 9, 2002), a petition for a five month extension of time and required fee, a declaration executed by 11 of 12 joint inventors, the surcharge, application filing fees, the petition fee, and the instant petition were filed. A declaration of facts of Carolyn R. Marks, a patent assistant to the attorney of record, accompanied the petition. Ms. Marks explains that non-signing joint inventor, Paul E. Cantrell, received a copy of the application papers, but did not respond to the request that he sign the declaration for the patent application.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63

and 1.64 still has not been presented. The declaration contains non-initialed and in some cases, non-dated alterations to Inventors Fuches, Jacques, and Cifric's information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether non-initialed and/or non-dated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). Petitioners must submit supplemental declarations signed only by Inventors Fuches, Jacques, and Cifric, listing all the inventors and their information and correcting the non-initialed and/or non-dated changes to Inventors Fuches, Jacques, and Cifric's information.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231 Attn: E. Shirene Willis
By facsimile:	(703) 308-6916 Attn: Office of Petitions/E. Shirene Willis
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202 Attn: E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 9

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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APR 0 8 2003

OFFICE OF PETITIONS

In re Application of
Oates, et al.
Application No.: 10/099,883
Filed: March 14, 2002
Attorney Docket No.:0102323-00099
For: WIRELESS COMMUNICATIONS SYSTEMS AND METHODS FOR MULTIPLE PROCESSOR BASED MULTIPLE USER DETECTION

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed February 20, 2003 (certificate of mailing date February 14, 2003).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Paul E. Cantrell, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of facts of Carolyn R. Marks, a patent assistant to the attorney of record, explains that Mr. Cantrell received a copy of the application papers, but did not respond to the request that he sign the declaration for the patent application. Petitioners has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

PETER E. CANTRELL
15 PRESCOTT DRIVE
CHELMSFORD MA 01863

In re Application of
Oates, et al.
Application No.: 10/099,883
Filed: March 14, 2002
Attorney Docket No.:0102323-00099
For: WIRELESS COMMUNICATIONS SYSTEMS AND METHODS FOR MULTIPLE PROCESSOR BASED MULTIPLE USER DETECTION

LETTER

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APR 0 8 2003
OFFICE OF PETITIONS

Dear Mr. Cantrell:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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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Paper No. 11

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

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OFFICE OF PETITIONS

In re Application of :
John H. Oates, et al. :
Application No. 10/099,883 :
Filed: March 14, 2002 :
Attorney Docket No. 0102323-00099 :

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAYER & WILLIAMS, PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

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APR 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Thomas Andrew Strasser, et. al.	:	
Application No. 10/099,888	:	DECISION ON PETITION
Filed: March 15, 2002	:	
Attorney Docket No. PH01-00-04E	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed on March 24, 2008, to revive the above-identified application.

The application became abandoned for failure to timely file a reply to the final Office action mailed May 24, 2006. A Notice of Abandonment was mailed on March 22, 2007.

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 slightly 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.

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 $255 fee; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, 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 is being referred to Technology Center Art Unit 2613, to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
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Paper No. 8

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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DEC 16 2002

OFFICE OF PETITIONS

In re Application of
John H. Oates et al
Application No. 10/099,889
Filed: March 14, 2002
For: WIRELESS COMMUNICATIONS SYSTEMS AND METHODS FOR DIRECT MEMORY ACCESS AND BUFFERING OF DIGITAL SIGNALS FOR MULTIPLE USER DETECTION

: DECISION GRANTING
:STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 19, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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 regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center 2600.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
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PAUL E. CANTRELL
15 PRESCOTT DRIVE
CHELMSFORD, MA 01863

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DEC 1 6 2002

OFFICE OF PETITIONS

In re Application of
John H. Oates; Steven R. Imperiali; Alden J. Fuchs; Kathleen J. Jacques; Jonathan E. Greene; William J. Jenkins; Frank P. Lauginiger; David E. Majchrzak; Paul E. Cantrell; Mirza Cifric; Ian N. Dunn; Michael J. Vinskus
Application No. 10/099,889
Filed: March 14, 2002
For: WIRELESS COMMUNICATIONS SYSTEMS AND METHODS FOR DIRECT MEMORY ACCESS AND BUFFERING OF DIGITAL SIGNALS FOR MULTIPLE USER DETECTION

Dear Mr. Cantrell:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Nutter, McClennen & Fish LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2604

UNITED STATES 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

Nutter, McClennen & Fish, LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2604

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AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of	:	
John H. Oates, et. al.	:	
Application No. 10/099,889	:	NOTICE
Filed: March 14, 2002	:	
Attorney Docket No. 0102323-00104	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file is being forwarded to Technology Center Art Unit 2666 for examination in due course.

Inquiries related to this communication 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

Frances Hicks
Lead Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAYER & WILLIAMS P.C.
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

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AUG 29 2008

In re Application of	:	
Strasser et al.	:	
Application No. 10/099,890	:	DECISION ON PETITION
Filed: March 15, 2002	:	
Attorney Docket No. PH01-00-04C	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed June 12, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 13, 2006. A Notice of Abandonment was mailed April 23, 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 and fee of $255.00; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2613 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

MAILED

FEB 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Thomas Andrew Strasser et al.	:	
Application No. 10/099,891	:	DECISION ON PETITION
Filed: March 15, 2002	:	
Attorney Docket No. PH01-00-04b	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 21, 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, June 9, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 10, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2613 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

OIPE JC11
JUN 0 4 2002
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

Declaration and Power of Attorney For Patent Application

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

METHOD AND APPARATUS FOR PROVIDING GAIN EQUALIZATION TO AN OPTICAL SIGNAL IN AN OPTICAL COMMUNICATIONS SYSTEM
the specification of which

[ ] is attached hereto.

[X] was filed on March 15, 2002 as

Application Serial No.: 10/09,891
and was amended on _____
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information known to me that is material to patentability as defined in Title 37, Code of Federal Regulations, 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application of which priority is claimed:

NONE

I hereby claim the benefit under Title 35, United States Code, 119 (e) of any United States provisional application(s):

60/276,310 filed March 16, 2001

I hereby claim the benefit under Title 35, United States Code, 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, 112, I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

NONE

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that those statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and or agents(s) with full power of substitution and revocation, to prosecute said application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent and Trademark Office connected therewith, and all business related to non-United States national, regional, and international patent applications corresponding therewith.

Stuart H. Mayer, Esq.	(Reg. No. 35,277)
Karin L. Williams, Esq.	(Reg. No. 36,721)
Michael P. Fortkort, Esq.	(Reg. No. 35,141)
David B. Bonham, Esq.	(Reg. No. 34,297)
Mark K. Young, Esq.	(Reg. No. 38,666)
John Fortkort, Esq.	(Reg. No. 38,454)
James Prizant, Esq.	(Reg. No. 34,067)

Please address all correspondence to: Stuart Mayer, Esq.
Mayer Fortkort & Williams, PC
251 North Avenue West, 2nd Floor
Westfield, NJ 07090

Direct all telephone calls to: Stuart Mayer, Esq.
(908) 518-7700 Telephone
(908) 518-7795 Facsimile

SIGNATURE PAGE

1. Full name of first inventor: Thomas Andrew Strasser

   Inventor's signature _____ Date 4/10/2002

   Residence: Warren, New Jersey

   Citizenship: United States

   Post Office Address: 6 Harmony Road
   Warren, New Jersey 07059

2. Full name of second inventor: Per Bang Hansen

   Inventor's signature _____ Date 4/10-02

   Residence: Rumson, New Jersey

   Citizenship: Denmark

   Post Office Address: 4 Sheraton Lane
   Rumson, New Jersey 07760

3. Full name of third inventor: Neil Allan Jackman

   Inventor's signature _____ Date 4/10/02

   Residence: Freehold, New Jersey

   Citizenship: Great Britain

   Post Office Address: 312 Rock Oak Road
   Freehold, New Jersey 07728

4. Full name of fourth inventor: Andrew John Stentz

   Inventor's signature _____ Date 4/11/2002

   Residence: Clinton, New Jersey

   Citizenship: United States

   Post Office Address: 9 Goosetown Drive
   Clinton, New Jersey 08809

5. Full name of fifth inventor: Jefferson L. Wagener

   Inventor's signature _____ Date 4/9/2002

   Residence: New Hope, Pennsylvania

   Citizenship: United States

   Post Office Address: 1312 River Road
   New Hope, Pennsylvania 18938

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 0205

DATE : 2/14/05

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: ~~6704993~~ 6707176

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:

DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
SPE

2834
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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HEAD, JOHNSON & KACHIGIAN
MOORE MANOR
228 WEST 17TH PLACE
TULSA, OK 74119

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of
Jesus Matey
Application No. 10/099,899
Filed: March 14, 2002
Attorney Docket No. 46522 - 1100

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 3, 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 6, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 7, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on December 3, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2623 for appropriate action by the Examiner in the normal course of business on the reply received December 3, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/099,902	**4/2/03**	**MATTI SALMI, ET AL.**	**944-001.064**

Title: **REALISATION OF PRESENCE MANAGEMENT METHOD AND APPARATUS**

Art Unit	Paper Number

Correspondence Address:
FRANCIS J. MAGUIRE
WARE, FRESSOLA, VAN DER SLUYS & ADOLPHSON
755 MAIN ST., P. O. BOX 224, BRADFORD GREEN, BLDG. 5
MONROE, CT 06468

PATENT & TRADEMARK OFFICE
MAILED
JUL 18 2003
LICENSING & REVIEW

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 540,009
Grant Date: 18-Jul-03

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved
for Commissioner of Patents and Trademar

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

This license is granted under 37 CFR 5.15(a).

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

In re:	SALMI et al.	:DECISION ON REQUEST
Petition Filing date:	02 April 2003	:UNDER 37 CFR 5.25
Application No.:	10/099,902	
Docket No.:	944-001.064	

Title: REALISATION OF PRESENCE MANAGEMENT METHOD AND APPARATUS

This is a decision on the petition filed February 27, 2003 for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	Date
PCT	13 March 13 2002

Yvonne R. Abbott
Patent Examiner
(703) 308-2866

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
www.uspto.go

Paper No. 6

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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DEC 1 6 2002

OFFICE OF PETITIONS

In re Application of
John H. Oates et al
Application No. 10/099,912
Filed: March 14, 2002
For: WIRELESS COMMUNICATIONS SYSTEMS AND METHODS FOR CONTIGUOUSLY ADDRESSABLE MEMORY ENABLED MULTIPLE PROCESSOR BASED MULTIPLE USER DETECTION

: DECISION GRANTING
:STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 29, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to the Initial Patent Examination Unit.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
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DEC 1 6 2002

OFFICE OF PETITIONS

PAUL E. CANTRELL
15 PRESCOTT DRIVE
CHELMSFORD, MA 01863

In re Application of
John H. Oates; Steven R. Imperiali; Alden J. Fuchs; Kathleen J. Jacques; Jonathan E. Greene; William J. Jenkins; Frank P. Lauginiger; David E. Majchrzak; Paul E. Cantrell; Mirza Cifric; Ian N. Dunn; Michael J. Vinskus
Application No. 10/099,912
Filed: March 14, 2002
For: WIRELESS COMMUNICATIONS SYSTEMS AND METHODS FOR CONTIGUOUSLY ADDRESSABLE MEMORY ENABLED MULTIPLE PROCESSOR BASED MULTIPLE USER DETECTION

Dear Mr. Cantrell:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Nutter, McClennen & Fish LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2604

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 9

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA, 02210-2604

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AUG 0 6 2004
OFFICE OF PETITIONS

In re Application of	:	
Oates, et al.	:	NOTIFICATION UNDER
Application No. 10/099,912	:	37 CFR 1.28(c)
Filed: March 14, 2002	:	
Attorney Docket No. 0102323-00100	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed July 12, 2004.

37 CFR 1.28(c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby accepted.

The change of status to a large entity has been entered and made of record.

This application will be forwarded to Technology Center 2600 for examination *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID J. POWSNER
NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

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AUG 1 1 2004

OFFICE OF PETITIONS

NOTICE

In re Application of :
John H. Oates :
Application No. 10/099,916 :
Filed: March 14, 2002 :
Attorney Docket No. 0102323-00096

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 2631 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
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Paper No. 8

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

COPY MAILED

DEC 16 2002

OFFICE OF PETITIONS

In re Application of	:
John H. Oates et al	:
Application No. 10/099,918	: DECISION GRANTING
Filed: March 14, 2002	:STATUS UNDER 37 CFR 1.47(a)
For: WIRELESS COMMUNICATIONS	:
SYSTEMS AND METHODS FOR	:
MULTIPLE OPERATING SYSTEM	
MULTIPLE USER DETECTION	

This is in response to the petition under 37 CFR 1.47(a), filed November 22, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The 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 regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center 2600.

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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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PAUL E. CANTRELL
15 PRESCOTT DRIVE
CHELMSFORD, MA 01863

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DEC 16 2002

OFFICE OF PETITIONS

In re Application of
John H. Oates; Steven R. Imperiali; Alden J. Fuchs; Kathleen J. Jacques; Jonathan E. Greene; William J. Jenkins; Frank P. Lauginiger; David E. Majchrzak; Paul E. Cantrell; Mirza Cifric; Ian N. Dunn; Michael J. Vinskus
Application No. 10/099,918
Filed: March 14, 2002
For: WIRELESS COMMUNICATIONS SYSTEMS AND METHODS FOR MULTIPLE OPERATING SYSTEM MULTIPLE USER DETECTION

Dear Mr. Cantrell:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Nutter, McClennen & Fish LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2604

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

NUTTER MCCLENNEN & FISH
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

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AUG 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
John H. Oates et al	:	
Application No. 10/099,918	:	NOTICE
Filed: March 14, 2002	:	
Attorney Docket No. 0102323-00103	:	

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 2634.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JJGJr: 11-03

Paper No: 7

KNOBBE MARTENS
OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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NOV 1 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Dykeman	:	
Application No. 10/099,932	:	DECISION ON PETITION
Filed: 13 March, 2002	:	
Attorney Docket No.: HDMSYS.007A	:	

This is a decision on the renewed petition filed on 2 June, 2003, resubmitted via FAX on 5 November, 2003, and supplemented via FAX on 7 November, 2003, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f), and considered as a petition under 37 C.F.R. §1.137(b).

The petition is **GRANTED**.

Petitioner Michael Trenholm (Reg. No. 37,743) (Petitioner) states that the instant nonprovisional application filed with a non-publication request is the subject of what Petitioner identifies as "an application filed in Taiwan on November 27, 2002" (the Taiwan application) Petitioner further indicates that:

- his client did not inform him of the filing of the Taiwan application and no recession and/or Notice thereof of the non-publication request was filed, such that the instant application went abandoned by operation of law after midnight 11 January, 2003, --i.e., 45 days after the Taiwan application was filed; and

- his client directed him to file a PCT application, which he did on 13 March, 2003, but he did not file his recession and Notice thereof until 2 June, 2003, contemporaneously with the filing of the instant petition--more than 45 days of the PCT filing);

- Petitioner unintentionally failed to "Notice" the US Patent and Trademark Office within

45 days subsequent to the filing of the international application.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 C.F.R. §1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 C.F.R. §1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of 19 February, 2004, accompanies this decision on petition.

The application is being forwarded to Technology Center 2800 for further processing in due course.

Inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

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APR 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Yoshitada Tanaka :
Application No. 10/099,938 : ON PETITION
Filed: March 19, 2002 :
Attorney Docket No. 112319

This is a decision on the petition, filed March 31, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 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 Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Date : April 1, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/099,938

Applicant(s) : Yoshitada Tanaka
Application No. : 10/099,938
Filed : March 19, 2002

The above-identified application has been assigned Patent No. 6,715,891 and an issue date of April 6, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of : April 6, 2004.

> "All reference to Patent No. 6,715,891 to Yoshitada Tanaka of Japan for PROJECTOR appearing in the Official Gazette of April 6, 2004 should be deleted since no patent was granted."

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 19928
ALEXANDRIA, VA 22320

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OFFICE OF PETITIONS

In re Application of :
Yoshitada Tanaka :
Application No. 10/099,938 : ON PETITION
Filed: March 19, 2002 :
Attorney Docket No. 112319

This is a decision on the petition, filed October 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 July 12, 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 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/27/05

TO SPE OF : ART UNIT 1771

SUBJECT : Request for Certificate of Correction on Patent No.: 6814881

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.

Please check claims.

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:

TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE — **Art Unit** 5/17/05

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Paper No. 082004

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OCT 1 2004

In re Application of:	:	
STEPHEN WINZER	:	
Serial No.: 10/099,982	:	DECISION ON REQUEST TO WITHDRAW
Filed: March 19, 2002	:	FROM RECORD
Attorney Docket No.: **040092-009300S**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed March 18, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Richard T. Ogawa, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

All future communications from the Office will be directed to Mark J. Itri, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MARK J. ITRI, ESQ.
MCDERMOTT, WILL & EMERY
18191 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92612

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OFFICE OF PETITIONS

BUCHANAN INGERSOLL & ROONEY, PC
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:	
Bas ORDING et al.	:	
Application No. 10/100,067	:	ON PETITION
Filed: March 19, 2002	:	
Attorney Docket No. P2769--820	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 01, 2009, 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 06, 2009, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on June 07, 2009.

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 as filed on June 09, 2009; (2) the petition fee of $1,620; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Niketa I. Patel at 571-272-4156 or in her absence, the undersigned at 571-272-7099.

The application file is being referred to the Office of Patent Publication.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BUCHANAN INGERSOLL & ROONEY, PC
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Bas Ording	: DECISION ON REQUEST FOR
Patent Number	: 7607102	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/100,067	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1909** 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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B. Noel Kivlin
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398

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DEC 01 2006

Technology Center 2100

In re Application of: Drogichen, et al.	)
Application No. 10/100,127	) DECISION ON PETITION FOR
Attorney Docket No. 2070.007500/P7160	) SUPERVISORY REVIEW REGARDING
Filed: 03/18/2002	) FINALITY OF RESTRICTION
For: METHOD AND APPARATUS FOR	) REQUIREMENT UNDER 37 CFR
UPDATING SERIAL DEVICES	) §1.144

This is in response to the petition filed on January 3, 2006, under 37 CFR 1.144 requesting supervisory review of the finality of a species election mailed on June 3, 2005. Note, A petition under 37 CFR §1.144 will not be considered if reconsideration of the requirement was not requested (see §1.181(c)). The delay in responding to the instant petition is regretted.

The petition is **GRANTED**.

RECENT PROSECUTION HISTORY

(1) A species election was mailed on June 3, 2005, in which claims 1-28 were subject to an election requirement. The application was identified to contain the following patentably distinct species: Species 1 – Claims 1-13 and 21-28; and Species 2 – Claims 14-20.

(2) On July 7, 2005 a response to the election requirement was filed in which Applicant provisionally elected with traverse species 1, drawn to claims 1-13, and 21-28. Applicant provided reasons in support of the traversal, including a discussion of M.P.E.P. 802.01.

(3) On September 30, 2005, the Examiner issued a first office action on the merits, in response to Applicant's election of species 1, wherein claims 1-13 and 21-28 were examined, claims 14 -20 were withdrawn. This office action determined the requirement for election to be proper and therefore was made FINAL.

(4) On January 3, 2006, the instant petition was filed by Petitioner, under 37 CFR §1.144.

(5) On February 8, 2006, in response to a notice of non-compliant amendment mailed on January 12, 2006, a response and amendment were timely filed.

(6) On April 25, 2006, a second non-final Office action was mailed.

(7) On July 28, 2006, a response and amendment after non-final rejection was filed.

(8) On October 10, 2006, a final Office action was mailed.

RELIEF REQUESTED

The instant petition under 37 CFR 1.144 requests the following relief:

(1) withdrawal of the election requirement of June 3, 2005 (made FINAL in the Office action mailed on September 30, 2005);
(2) as a result of item (1), examination of all pending claims consistent with this decision.

ANALYSIS

Petitioner provides various arguments in support of the withdrawal of the election requirement including reference to M.P.E.P. §806.04(e) and (f), which state:

> 806.04(e) [R-5] Claims Limited to Species Claims are definitions >or descriptions< of inventions. ***Claims >themselves< are never species.*** The scope of a claim may be limited to a single disclosed embodiment (i.e., a single species, and thus be designated a specific species claim)*>. Alternatively,< a claim may *>encompass< two or more of the disclosed embodiments** (and thus be designated a generic or genus claim). ***Species * always >refer to< the * different embodiments >of the invention<.***
> 806.04(f) [R-3] **> Restriction Between< Mutually Exclusive *>Species<
> ***Claims to be restricted to different species must be mutually exclusive. The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. This is frequently expressed by saying that claims to be restricted to different species must recite the mutually exclusive characteristics of such species.***

In addition, note M.P.E.P. §806.03 sets forth:

> ***Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required.*** This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

First, and in accordance with M.P.E.P. §806.04(e), "claims themselves are never species". As such, the identification of various species should be by way of reference to the different embodiments (or figures) of the invention, rather than by way of the claims themselves.

Second, Petitioner states that claims 1 and 14 (identified by Species 1 and 2, resp.) are not mutually exclusive and plainly do not refer to different species. A review of the instant application does in fact set forth that the claims are related (see specification "brief description of the drawings" – pages 4-5, specifically figs. 5A-C and 6A-C, as well as page 9 line 15 and ff) and set forth very similar claim limitations. That is, the limitations of apparatus claim 1 appear to closely parallel the limitations of method claim 14. In addition, Petitioner is correct in the

analysis that the concept of "mutually exclusive" is not consistent with the concept of "method and apparatus" as implied by the Examiner in the office action of September 30, 2005. See M.P.E.P. 806.05(e) - 806.05(h) for a discussion of restriction practice based on related inventions between method (or process) and apparatus (or product).

Thus, and in accordance with M.P.E.P. §806.03 and §806.04(e) & (f), the species election requirement of June 3, 2005 between Claims 1-13 & 21-28 (Species 1) and Claims 14-20 (Species 2), is deemed to be improper.

CONCLUSION

The petition is **GRANTED**. The previous action (final rejection mailed October 10, 2006) and election requirement of June 3, 2005 are hereby **WITHDRAWN** and a new non-final office action will be forthcoming.

The application is being forwarded to the Examiner for appropriate action i.e. prosecution of all pending claims, consistent with this decision.

Any inquiries related to this decision may be directed to the undersigned at (571) 272-3595

Brian L. Johnson, QAS (P.M.)
Technology Center 2100
Computer Architecture, Software, and Information Security

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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OFFICE OF PETITIONS

In re Application of :
Takashi Sasaki et al :
Application No. 10/100,138 :
Filed: March 19, 2002 :
Attorney Docket No. 00862.022560 :

ON PETITION

This is a decision on the petition, filed August 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 2853 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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LSI LOGIC CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS, CA 95035

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OFFICE OF PETITIONS

In re Application of :
William A. Hetrick :
Application No. 10/100,150 :
Filed: March 18, 2002 :
Attorney Docket No. 01-977 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 15, 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 September 3, 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 December 4, 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 referred to Technology Center AU 2188 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc:

Duke W. Yee
P.O. Box 802333
Dallas TX 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

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Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin NJ 08830

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OCT 19 2006

OFFICE OF PETITIONS

In re Application of :
Krishnan :
Application No. 10/100,154 : DECISION ON PETITION
Filed: March 18, 2002 :
Attorney Docket No. 2002P04284US01 :
For: EFFICIENT ORDERING OF DATA FOR COMPRESSION AND VISUALIZATION

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2006 (certificate of mailing date February 9, 2006), to revive the above-identified application and the petition under 37 CFR 1.48(a) to add Michael Wesley Marcellin as an inventor.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

The petition under 37 CFR 1.48(a) is **HELD IN ABEYANCE** until the application is revived.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled " Renewed Petition under 37 CFR 1.137(b) and Request to Consider Petition under 37 CFR 1.48(a), Previously Filed." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely pay the issue fee and publication fee and return a completed PTOL-85B within three (3) months of the mailing of the April 4, 2005Notice of Allowance and Fee(s) Due. Accordingly, this application became abandoned on July 5, 2005. A Notice of Abandonment was mailed on January 19, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that

the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

This petition lacks item (1).

Petitioner has not submitted a completed PTOL-85B. A completed PTOL-85B or its equivalent must be submitted, per the Notice of Allowance and Fee(s) Due.

Once a completed PTOL-85B is submitted the issue fee and publication fee will be charged to petitioner's deposit account.

Because the application is still abandoned, it is not appropriate at this time to address the petition under 37 CFR 1.48(a) on its merits. The petition will be held in abeyance and will be addressed once the application is revived.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 – ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin NJ 08830

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OFFICE OF PETITIONS

In re Application of :
Krishnan :
Application No. 10/100,154 : DECISION ON PETITION
Filed: March 18, 2002 :
Attorney Docket No. 2002P04284US01 :

For: EFFICIENT ORDERING OF DATA FOR COMPRESSION AND VISUALIZATION

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed October 27, 2006, to revive the above-identified application and the petition under 37 CFR 1.48(a), filed February 13, 2006 (certificate of mailing date February 9, 2006) to add Michael Wesley Marcellin as an inventor.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.48(a) is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee and return a completed PTOL-85B within three (3) months of the mailing of the April 4, 2005 Notice of Allowance and Fee(s) Due. Accordingly, this application became abandoned on July 5, 2005. A Notice of Abandonment was mailed on January 19, 2006.

Applicant has submitted a reply in the form of the issue fee, the publication fee, and a completed PTOL-85B, an acceptable statement of the unintentional nature of the delay in responding to the April 4, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.[1]

---

[1] Pursuant to petitioner's authorization, deposit account no. 19-2179 was charged the $1,500.00 issue fee and the $300.00 publication fee on accounting date October 30, 2006.

The petition to revive is **granted**.

With respect to the petition under 37 CFR 1.48(a): An executed declaration in compliance with 37 CFR 1.63 was filed on June 7, 2002. The executed declaration listed a sole inventor – Arun Krishnan.

The instant petition was filed to correct the inventorship by adding Michael Wesley Marcellin as a joint inventor.

37 CFR 1.48(a) requires: (1) a request to correct the inventorship that sets forth the desired inventorship change (2) a statement from each person being added that the error occurred without deceptive intention on his or her part; (3) 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; (4) the fee set forth in 37 CFR 1.17 (i); and (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The above requirements being met, the petition under 37 CFR 1.48(a) to correct inventorship is **granted**. Please find enclosed a replacement filing receipt reflecting the addition of Michael Wesley Marcellin as a joint inventor.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

enclosure: replacement filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/100,154	03/18/2002	2621	1308	2002P04284US	3	23	4

CONFIRMATION NO. 5488

REPLACEMENT FILING RECEIPT

OC000000021619080

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

Date Mailed: 12/14/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Arun Krishnan, Monmouth Junction, NJ;
Michael Wesley Marcellin, Tucson, AZ;

Power of Attorney:

Jeffrey Morris--25307
Mark Jay--27507
Adel Ahmed--29606
Peter Luccarelli Jr--29750
James Markarian--31277
Joseph Codispoti--31819
Stanton Braden--32556
Donald Paschburg--33753
Daniel Staudt--34733
Laura Slenzak--35363

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/18/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/100,154

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

EFFICIENT ORDERING OF DATA FOR COMPRESSION AND VISUALIZATION

Preliminary Class

382

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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www.uspto.gov

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

COPY MAILED
JAN 15 2009

In re Application of
Naohiko Miyata, et al.
Application No. 10/100,160
Filed: March 19, 2002
Attorney Docket No. 049400-5022

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

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Paper No. None

Paul Grandinetti
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Suite 408
1725 K Street NW
Washington DC 20006-1419

COPY MAILED

MAR 07 2006

OFFICE OF PETITIONS

In re Application of :
Freddy T. Lee et al. :
Application No. 10/100,162 :
Filed: March 19, 2002 :
Attorney Docket Number: :
AMB027US :
Title: CERVICAL IMMOBILIZATION :
DEVICE :

DECISION ON PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition under 37 CFR §1.181(a), filed December 8, 2005, to withdraw the holding of abandonment.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 26, 2005, which set a shortened statutory period for reply of three (3) 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 April 27, 2005. A notice of abandonment was mailed on September 7, 2005.

With the present petition, petitioner has asserted that a response to the non-final Office action was timely submitted via facsimile transmission on March 30, 2005. Petitioner has further asserted that the notice of abandonment has not been received.

RELEVANT RULE AND PORTIONS OF THE MPEP

§ 1.8 Certificate of mailing or transmission.

(a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
(1) Correspondence will be considered as being timely filed if:
(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

...

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.
(c) The Office may require additional evidence to determine if the correspondence was timely filed.

[41 FR 43721, Oct. 4, 1976; 43 FR 20461, May 11, 1978; para. (a). 47 FR 47381, Oct. 26, 1982, effective Oct. 26, 1982; para. (a),48 FR 2708, Jan. 20, 1983; para. (a) 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (a), 49 FR 5171, Feb. 6, 1985, effective Mar. 8, 1985; 52 FR 20046, May 28, 1987; subparas. (a)(2)(xiv)-(xvi), 54 FR 37588, Sept. 11, 1989, effective Nov. 16, 1989; revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; para. (a) revised, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (a)(2)(i)(A) & (b) revised; 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a)(2)(i)(F) revised, 67 FR 520, Jan. 4, 2002, effective Apr. 1, 2002; para. (b)(3) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(2)(ii) removed and reserved, 68 FR 48286, Aug. 13, 2003, effective Sept. 12, 2003; para. (a)(2)(i)(B) removed and reserved and para. (a)(2)(i)(C) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13,

2004; paras. (a) and (b) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

37 C.F.R. § 1.181 (f):

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

MPEP 711.03(c) states, in part:

> 37 CFR 1.10(c) through 1.10(e) >and 1.10(g)< set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), * (e)>, or (g)< (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date. Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides prima facie evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).
>
> 37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.<
>
> ...

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

ANALYSIS

The showing in the instant petition is not sufficient to withdraw the holding of abandonment.

37 C.F.R. §1.181(f) indicates that any petition submitted under this portion of the C.F.R. that is not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. The present petition was submitted over three months after the mailing of the notice of abandonment[1].

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1 Although Petitioner has asserted that he did not receive said notice, it does not appear that he has submitted any evidence which would substantiate this allegation. There is no indication that he has searched the file jacket or the docket records for this communication. Additionally, it does not appear that a copy of either the file jacket or the docket records have been provided with this petition.

As such, the petition under 37 C.F.R. §1.181 is **DISMISSED** as untimely.

It is noted in passing that even if this petition were to be accepted as timely filed, it could not be granted.

The PTO has a well established and well publicized practice by which practitioners may provide proof that papers were submitted to the Office on a particular date. Any papers which are required to be filed in the PTO within a set period of time will be considered as being timely filed if a certificate of facsimile transmission is properly prepared and executed. Furthermore, pursuant to 37 C.F.R. §1.8(b), reproduced above, certificate of facsimile transmission practice provides relief to applicants in the event that correspondence is not received by the Office.

The amendment which was purportedly submitted on March 30, 2005 has been reviewed in the electronic file, and it does not appear to contain a certificate of facsimile transmission. As such, Petitioner will not be able to establish that this submission was presented to the Office on March 30, 2005.

Furthermore, it is noted that Petitioner has indicated that the facsimile transmission was sent to (703) 273-4978. The Office action of January 26, 2005 has been reviewed, and this does not appear to be the facsimile number which appears at the conclusion of the Office action[2]. Petitioner has asserted that the Examiner provided this facsimile number to him over the telephone, however as set forth in 37 C.F.R. §1.2:

> 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.

CONCLUSION

Any renewed petition 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 reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

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2 On page 5 of the Office action, the fax number for the Examiner's organization is listed as 703-872-9306.

Petitioner may wish submit a petition under 37 C.F.R. §§1.137(a) and/or (b). No assurance can be made that any remedy will be forthcoming.

Any subsequent petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[3], hand-delivery[4], or facsimile[5]. 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

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.

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. None

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Suite 408
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Washington DC 20006-1419

COPY MAILED
JUN 05 2006
OFFICE OF PETITIONS

In re Application of Freddy T. Lee et al. Application No. 10/100,162 Filed: March 19, 2002 Attorney Docket Number: AMB027US Title: CERVICAL IMMOBILIZATION DEVICE	DECISION ON PETITION UNDER 37 C.F.R. §1.137(A)

This is a decision on the petition filed May 8, 2006, under 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 26, 2005, which set a shortened statutory period for reply of three (3) 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 April 27, 2005. A notice of abandonment was mailed on September 7, 2005.

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1 A grantable petition pursuant to 37 C.F.R. §1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. §1.17(l);
(3) A showing to 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 was unavoidable;
(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.

On December 8, 2005, Petitioner submitted a petition under 37 C.F.R. §1.181(a), which was dismissed via the mailing of a decision on March 7, 2006.

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"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. The Commissioner's interpretation of those provisions is entitled to considerable deference."[2]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[3]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[4]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[5]

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2 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, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence 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.")

3 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

4 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

5 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

The standard

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].

"[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."[8]

The Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions[9]. Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133[10].

The actions of the attorney are imputed to the client, for when a petitioner voluntarily chooses an attorney to represent him, the petitioner cannot later distance himself from this attorney, so as to avoid the repercussions of the actions or inactions of this selected representative, for clients are bound by the acts of their lawyers/agents, and constructively possess "notice of all facts, notice of which can be charged upon the attorney[11]."

Courts hesitate to punish a client for its lawyer's gross negligence, especially when the lawyer affirmatively misled the client," but "if the client freely chooses counsel, it should be

---

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 Link v. Wabash, 370 U.S. 626, 633-634 (1962).
10 Haines, 673 F.Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 103, 131 (Comm'r Pat. 1891).
11 Link at 633-634.

bound to counsel's actions[12]."

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account[13]."

RELEVANT LAW, RULES, AND O.G. NOTICE

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 Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

(Amended Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

37 C.F.R. § 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.

37 C.F.R. § 1.8 Certificate of mailing or transmission.

(a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
(1) Correspondence will be considered as being timely filed if:
(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing

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12 Inryco, Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983). See also, Wei v. State of Hawaii, 763 F.2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983).
13 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.

the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

...

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.
(c) The Office may require additional evidence to determine if the correspondence was timely filed.

[41 FR 43721, Oct. 4, 1976; 43 FR 20461, May 11, 1978; para. (a). 47 FR 47381, Oct. 26, 1982, effective Oct. 26, 1982; para. (a),48 FR 2708, Jan. 20, 1983; para. (a) 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (a), 49 FR 5171, Feb. 6, 1985, effective Mar. 8, 1985; 52 FR 20046, May 28, 1987; subparas. (a)(2)(xiv)-(xvi), 54 FR 37588, Sept. 11, 1989, effective Nov. 16, 1989; revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; para. (a) revised, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (a)(2)(i)(A) & (b) revised; 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a)(2)(i)(F) revised, 67 FR 520, Jan. 4, 2002, effective Apr. 1, 2002; para. (b)(3) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(2)(ii) removed and reserved, 68 FR 48286, Aug. 13, 2003, effective Sept. 12, 2003; para. (a)(2)(i)(B) removed and reserved and para. (a)(2)(i)(C) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004; paras. (a) and (b) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

37 C.F.R. § 1.135: Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

[Paras. (a), (b), and (c), 47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; para. (d) deleted, 49 FR 555, Jan. 4, 1984, effective Apr. 1, 1984; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

1292 O.G. 18614, sets forth, *in pertinent part*:

To facilitate processing of correspondence into the Image File Wrapper (IFW) system, the United States Patent and Trademark Office (USPTO or Office) is revising its procedures to require that a single, centralized location be used for hand-carried and facsimile-transmitted patent application related incoming correspondence delivered to organizations reporting to the Commissioner of Patents (e.g., Technology Centers, the Office of Patent Publication, and the Office of Petitions). Most other offices as listed below will continue receiving hand-carried and facsimile-transmitted correspondence at the same locations and at the same facsimile numbers. The centralized location for hand-carried correspondence is the existing Customer Window. The centralized facsimile number is (703) 872-9306. The changes are effective December 1, 2003.

ANALYSIS

With the present petition, Petitioner has submitted the petition fee. The required reply was submitted with the previously filed petition under 37 C.F.R. §1.181(a), and a terminal disclaimer is not required. Petitioner has failed to establish that the entire period of delay was unavoidable. A discussion follows.

Petitioner has asserted that he received the non-final Office action of January 26, 2005, and arranged to have an interview with the Examiner on March 30, 2005. Petitioner has further asserted that on that same day, he submitted a response to this non-final Office action via facsimile transmission. Petitioner purportedly sent this not to the central facsimile number as required[15], but rather to 571-273-4978, as "Examiner Mathew directed that the amendment be sent" to this alternate number[16].

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14 This notice was published on March 29, 2005, and is available online at http://www.uspto.gov/web/offices/com/sol/og/2005/week13/patcndl.htm

15 It is noted that in the non-final Office action, the Examiner listed his facsimile number as 703-872-9306. This was the central facsimile number prior to July 15, 2005, on which date the central facsimile number changed to 571-273-8300, per 1296 O.G. 76, published on July 12, 2005 and available online at http://www.uspto.gov/web/offices/com/sol/og/2005/week28/patfaxs.htm.

16 Petition, page 2.

Petitioner has asserted that during this interview, it was agreed that the amendment would be entered and the application would pass to issuance. Petitioner never received an interview summary, a notice of allowance, or the notice of abandonment which was mailed on September 7, 2005.

It is noted that the notice of abandonment was mailed to the wrong address, for Office records show that on June 21, 2005, the correspondence address was changed and the street address was inadvertently omitted. The Office regrets this error, however this error is immaterial to the abandonment of the present application. 35 U.S.C. §133 is a self-executing law, 37 C.F.R. §1.135 is a self-executing regulation, and each indicates that failure to respond within the expiration of the maximum extendable period for response will result in the abandonment of the application.

With the previous petition under 37 C.F.R. §1.181, Petitioner was not able to establish that the amendment of March 30, 2005 was submitted to the Office on this date, as the amendment does not contain a certificate of mailing. Furthermore, Petitioner was unable to rely on the assertion that the Examiner provided this alternate facsimile number to him over the telephone, pursuant to 37 C.F.R. §1.2.

The centralized delivery requirement that stipulates that most facsimile correspondence be transmitted to a central facsimile number has been in effect since December 1, 2003. Petitioner is a registered practitioner, and as such, the Office will presume that he was aware of this requirement on March 30, 2005, the date on which the amendment was purportedly transmitted to a facsimile number other than the centralized facsimile number.

Petitioner cannot rely on this verbal instruction pursuant to 37 C.F.R. §1.2. *Assuming arguendo* that this communication which lies outside of the written record could be relied upon, and Petitioner is correct in his assertion that he was verbally instructed to send the facsimile to a number other than the centralized facsimile number, and the amendment was not entered as a result of this erroneous submission, the entire period of delay could not be considered to have been unavoidable. A delay caused by an applicant's improper application of the rules of practice 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[17]. Petitioner purportedly submitted an amendment to a facsimile number which lies outside of the proper channels of official communication with the Office, as set forth in the Official Gazette notice partially reproduced above.

Petitioner has succinctly stated the basis on which he asserts that the entire period of delay was unavoidable: "an Examiner's Interview Summary Sheet was not provided and thus the applicants were never informed by the Office that the Examiner did not enter the amendments to the claims and did not allow the application[18]."

First, the record does not indicate that the amendment in questions was ever received by the Office.

Secondly, the failure of the Office to issue an interview summary did not result in the abandonment of this application - the application went abandoned due to Petitioner's failure to submit an amendment in a proper and timely manner.

Third, *assuming arguendo* that the Office's failure to issue an interview summary resulted in the abandonment of this application, this failure does not give rise to unavoidable delay. When issuing a decision on a petition under this section of the C.F.R., the general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business[19]?" 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[20].

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17 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).
18 Petition, page 8.
19 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

20 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,

The finding of unavoidable delay requires that Petitioner acted as a prudent and careful man acting in relation to his most important business. Petitioner acted in contravention to the centralized facsimile number requirement, and purportedly submitted his amendment through an unofficial channel. Petitioner asserts that it was indicated during the interview with the Examiner that the amendment placed the claims in condition for allowance, and yet this information was not memorialized and placed into the record by the Examiner via the preparation of an interview summary. After not receiving an interview summary from the Office - what prevented Petitioner from submitting his own interview summary? A prudent and careful man would have ensured that the indication that the claims were allowable was placed into the record. If the Examiner failed to place this indication into the record, this prudent and careful man would take care of the matter himself via the filing of an interview summary which would memorialize the indication that the application was to pass to issuance.

Petitioner failed to submit an interview summary, and hence his actions are inconsistent with an ordinarily prudent and careful man, acting in relation to his most important business. As such, it cannot be determined that the entire period of delay was unavoidable, and a petition under this section of the C.F.R. cannot be granted where a petitioner has failed to meet his burden of establishing that the delay was "unavoidable[21]."

As such, the petition under 37 C.F.R. §1.137(a) must be **DISMISSED.**

CONCLUSION

Petitioner's only relief is a petition under 37 C.F.R. §1.137(b), and - having been made aware of this reality - Petitioner's delay in promptly seeking relief under 37 C.F.R. §1.137(b) may be considered evidence of intentional delay and an absolute bar to revival.

NOTICE:

Any renewed petition under 37 C.F.R. §1.137(a) 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.

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).
21 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

Failure to respond will result in abandonment of the application. The renewed petition should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)," and should only address the deficiencies noted in this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.137(a)." This is not a final agency action within the meaning of 5 U.S.C §704.

Thereafter, there will be no further reconsideration of this matter[22,23].

Any subsequent petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[24], hand-delivery[25], or facsimile[26]. 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

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22 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

23 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

24 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

25 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

26 (571) 273-8300- please note this is a central facsimile number.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Paul Grandinetti
Levy & Grandinetti
Suite 408
1725 K Street NW
Washington DC 20006-1419

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DEC 18 2006

OFFICE OF PETITIONS

In re Application of
Freddy T. Lee et al.
Application No. 10/100,162
Filed: March 19, 2002
Attorney Docket Number:
AMB027US
Title: CERVICAL IMMOBILIZATION
DEVICE

DECISION ON PETITION UNDER
37 C.F.R. §1.137(B)

This is a decision on the petition filed August 9, 2006, under 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 non-final Office action, mailed January 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 April 27, 2005. A notice of abandonment was mailed on September 7, 2005.

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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.

On December 8, 2005, Petitioner submitted a petition under 37 C.F.R. §1.181(a), which was dismissed via the mailing of a decision on March 7, 2006. On May 8, 2006, Petitioner submitted a petition under 37 C.F.R. §1.137(a), which was dismissed via the mailing of a decision on June 5, 2006.

With the present petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received with the present petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

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JUL 22 2004

OFFICE OF PETITIONS

In re Application of
Shobhana D.Kelkar, et al.
Application No. 10/100,165
Filed: March 19, 2002
Attorney Docket No. 31446-179413

ON PETITION

This is a decision on the petition, filed May 4, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 20, 2003, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on December 30, 2003. In response, on May 4, 2004, the present petition was filed.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application is being referred to Technology Center AU 1648 for consideration of the response filed May 4, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WESTERMAN, HATTORI, DANIELS & ADRIAN
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Yuji Hamada et al	:	
Application No. 10/100,185	:	ON PETITION
Filed: March 19, 2002	:	
Attorney Docket No. 020356	:	

This is a decision on the petition, filed January 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1774 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KEITH FRANTZ
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SUITE 200
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OFFICE OF PETITIONS

ON PETITION

In re Application of
Thurman L. Richard et al.
Application No. 10/100,200
Filed: March 16, 2002
Attorney Docket No. **00359.US1**

This is a decision on the petition September 11, 2007 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 September 8, 2006 for failure to timely pay the issue fee on or before September 7, 2006. Accordingly, a Notice of Abandonment was mailed October 9, 2006.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having been met, this matter is being referred to Technology Center 3652 for consideration of the Rule 312 Amendment filed After Allowance.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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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Paper No. 7

COOLEY GODWARD LLP (R & P)
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3000 EL CAMINO REAL
PALO ALTO CA 94306-2155

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JAN 2 4 2003

OFFICE OF PETITIONS

In re Application of
McClelland, et al.
Application No. 10/100,235
Filed: March 14, 2002
Attorney Docket No. 0800-0027

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 23, 2002 (Certificate of Mailing dated July 18, 2002).

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on March 14, 2002, without, *inter alia*, an executed oath or declaration. Accordingly, on April 18, 2002, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a one month extension of time and included a Certificate of Mailing dated July 18, 2002. Applicant included a declaration signed by inventor Alan McClelland, but lacking a signature from inventor Roland Scollay.

Accompanying the petition were, *inter alia*: (1) a copy of a cover letter dated April 18, 2002 from assignee Avigen to Genteric, the employer of Scollay, transmitting the application papers (and requesting that the papers be forwarded to Scollay and that he sign and return the declaration); and (2) a copy of an e-mail from Avigen to Scollay's work e-mail address, dated March 14, 2002, requesting that Scollay provide his full name, residence, and citizenship. According to the petition, no response to the April 18th letter or the March 14th e-mail has been received.

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. Rule 47 applicant has not met requirements (1) and (2) above.

As to requirement (1), there has been no showing that Scollay was ever presented with the application papers. Regarding this, the Manual of Patent Examining Procedure states that 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."[1] The last known address is defined as the "address at which the inventor customarily receives mail. Ordinarily, the last known address will be the last known residence of the nonsigning inventor."[2] Here, the petition only establishes that the application papers were mailed to the employer of nonsigning inventor Scollay.[3]

As to requirement (2), the declaration is not acceptable because it does not comply with 37 CFR 1.63(c)(1). The declaration submitted does not identify an acceptable mailing address for non-signing inventor Scollay. Regarding the mailing address that must be supplied on the 37 CFR 1.63 oath or declaration, the Manual of Patent Examining Procedure states:

> Each applicant's mailing or post office address is required to be supplied on the oath or declaration, if not stated in an application data sheet. Applicant's mailing address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the mailing address.[4]

However, the Manual of Patent Examining Procedure also states:

> In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary.[5]

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[1] MPEP 409.03(d).

[2] Id.

[3] The petition states that because Scollay did not respond to the March 14, 2002 e-mail, Rule 47 applicant was unable to provide a last known address for Scollay. A perfunctory search on Lexis-Nexis by the Petitions Attorney revealed a residential address for Roland Scollay in San Francisco, California.

[4] MPEP 605.03.

[5] Id.

Here, Rule 47 applicant has supplied a business address for Scollay on the declaration. Since Scollay has not signed the declaration, applicant must supply Scollay's home address. On renewed petition, applicant must submit a declaration in compliance with 37 CFR 1.63.

A review of the application file reveals that the application was filed bearing Customer No. 31048. However, Office records indicate that Customer No. 31048 is associated with the above address, not the address given on the petition. If appropriate, a Change of Correspondence Address (PTO/SB/122) or Request for Customer Number Data Change (PTO/SB/124) 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 above address of record.

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 regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Robins & Pasternak LLP
545 Middlefield Road, Suite 180
Menlo Park, California 94025

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

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

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JAN 14 2003

OFFICE OF PETITIONS

In re Application of
Quigley
Application No. 10/100,247
Filed: March 18, 2002
Attorney Docket No. 97,166
For: COMMAND CONSOLE FOR HOME MONITORING SYSTEM

ON PETITION

This is a decision on the petition filed June 26, 2002, requesting, in effect, partial withdrawal of a Notice mailed May 9, 2002. [1]

The application was filed on March 18, 2002. However, on May 9, 2002, The Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers" (Notice) stating, *inter alia*, that the application had been accorded a filing date of March 18, 2002, and advising applicant that figure 7B described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner argues that the drawing should be included with the papers filed on March 18, 2002, because no new matter has been added from the original application that was filed on February 22, 1999. The above-identified application is a divisional application of prior application No. 09/255,421.

The petition is **DISMISSED**.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioner neither asserts that the missing drawing was actually deposited in the PTO on March 18, 2002 with the other application papers nor requests a later filing date.

---

[1] It is noted that applicant identified the parent application, rather than the instant divisional application, on the petition and the transmittal letter for the substitute drawings. The undersigned has altered the papers so that the correct application, No. 10/100,247, is listed and has placed the papers in the appropriate file.

Instead, applicant seeks to add figure 7B to the present application on the basis that the figure is not new matter. A review of the application file reveals that prior application No. 09,255,421's entire disclosure was incorporated by reference at the time of filing.

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

If applicant desires that figure 7B be added to the application, the appropriate procedure is by way of amendment requesting entry of the figure. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is subject to dismissal.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the Office.

It is noted that the inventor has filed this petition. Applicant has appointed several attorneys to conduct all business before the Patent and Trademark Office. Double correspondence with an applicant and applicant's attorneys will not be undertaken. 37 CFR 1.133(a). Accordingly, applicant is required to conduct all future correspondence with this Office through the attorneys of record. As a one time courtesy, a copy of this decision will be mailed to the inventor. If applicant no longer wishes to be represented by the attorneys of record, then a revocation of the power of attorney granted to them should be submitted. A correspondence address must be included on the correspondence instructing the Office where all future communications should be mailed.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 18, 2002. Only 24 of the 25 sheets of substitute drawing figures that were filed on June 26, 2002 will be processed at this time. **Substitute drawing figure 7B will not be processed at this time.**

Thereafter, the application will be forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: MARK P. QUIGLEY
EARLY WARNING CORPORATION
1600 SHORE ROAD, SUITE F
NAPERVILLE, IL 60563-1059

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 3 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 10

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

In re Application of:
Lyon et al.
Application No. 10/100,250
Filed: March 19, 2002
For: **FLEXIBLE IMAGE RENDERING SYSTEM UTILIZING INTERMEDIATE DEVICE-INDEPENDENT UNRENDERED IMAGE DATA**

DECISION ON PETITION

This is a decision on the request to withdraw as attorney/agent of record and change the correspondence address, filed on June 12, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has not met items (1) and (2) above. The undersigned, Alan S. Hodes, is no longer of record, having been previously withdrawn.

Accordingly, the request is **DENIED**.

Future communications from the Office will continue to be directed to the below-listed address. A courtesy copy is being sent to the address listed below.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

cc: SIERRA PATENT GROUP, LTD.
P O BOX 6149
STATELINE NV 89449

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandrai, VA. 22313-1450
WWW.USPTO.GOV

Paper No.

Daniel A. Monaco
Drinker, Biddle, & Reath, LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA. 19103-6996

Date: August 23, 2004
Application No. 10/100,256
Filed: March 15, 2002
Subject: **RADIOLABELED VASOACTIVE INTESTINAL PEPTIDE ANALOGS FOR IMAGING AND THERAPY**

ON PETITION
37 CFR 1.48(a)

Receipt is acknowledged of the petitions filed May 24, 2004, under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the Inventorship, and accordingly, this application has been changed by the **ADDITION of M.V. RAMANA REDDY**. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

THURMAN K. PAGE, M.A., J.D.
SUPERVISORY PATENT EXAMINER

Thurman K. Page

THURMAN K. PAGE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1615
Remsen 4A81
571-272-0602

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

Karen G. Kaiser
National Starch and Chemical Company
10 Finderne Avenue
Bridgewater NJ 08807-0500

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AUG 14 2002

OFFICE OF PETITIONS

In re Application of Lydzinski et al. Application No. 10/100,260 Filed: March 19, 2002 Attorney Docket No. 1960A.TDM	: : : : :	DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.10(d), filed July 16, 2002, requesting that the above-identified application be accorded a filing date of March 12, 2002.

Applicants allege that the application was deposited in Express Mail service on March 12, 2002. However, the petition is not accompanied by a true copy of the Express Mail mailing label showing the "date-in" or any other official notation by the United States Postal Service (USPS) relied upon to show the date of deposit as required by 37 CFR 1.10.

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. <u>The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation</u>. 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."

In support of the petition, applicants submitted a copy of their Express Mail mailing log containing an entry for a package bearing Express Mail label number as EL569397157US (the same Express Mail label number found on the original application papers). The entry also identified the date as March 12, 2002, and the sender as K. Kaiser. However, the entry does not identify the place and time of deposit of the package in Express Mail service or the last scheduled pick-up for that date. Moreover, it is unclear whether the entry in the log 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.

Accordingly, the petition is dismissed.

Any request for reconsideration of this decision should be filed within TWO (2) MONTHS of the mailing date of the decision to be considered timely. See 37 CFR 1.181(f). This time period may not be extended under 37 CFR 1.136. Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Senior Petitions Attorney Christina Donnell, Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

The application is being forwarded to Technology Center 1600 for examination in due course.

Telephone inquires related to this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH CA 92660

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JUL 0 5 2002

OFFICE OF PETITIONS

In re Application of
Frazier, et al.
Application No.: 10/100,270
Filed: March 15, 2002
Attorney Docket No. MVMDINC.006CP1
FOR: METHOD AND APPARATUS FOR ACCESSING THE LEFT ATRIAL APPENDAGE

: DECISION DISMISSING
: PETITION

This is a decision on the petition entitled, "PETITION TO SUBMIT OMITTED FIGURES FROM THE ABOVE-IDENTIFIED PATENT APPLICATION UNDER 37 CFR 1.182," filed April 30, 2002, requesting that the application be accorded a filing date of March 15, 2002, with drawings of Figures 22C and 22D considered as a part of the original disclosure of the above-identified application. The petition will be treated under 37 CFR 1.53(e).

The petition is dismissed.

The application was filed on March 15, 2002. However, on April 5, 2002, the Office of Initial Patent Examination mailed a Notice stating, *inter alia*, that the application had been accorded a filing date of March 15, 2002, but advising applicants that drawings of Figures 22C and 22D described in the specification appeared to have been omitted.

In response, the present petition was filed wherein applicants argue that Figures 22C and 22D do not contain new matter and should therefore be considered part of the original disclosure of the above-identified application.

Whether the drawings filed with the petition contain new matter is not the issue. Either the drawings were present in the Office on the filing date of the application or they were not. If they were not present on the filing date, they cannot be considered a part of the original disclosure of the application. Applicants admit that Figures 22C and 22D were not filed with the original application papers on March 15, 2002.

However, incorporation by reference practice may enable petitioners to obtain a March 15, 2002 filing date for the application, including Figures 22C and 22D. A review of the specification filed on March 15, 2002 reveals that petitioners incorporated by reference prior application No. 09/549,218. The Office allows an applicant to rely upon an incorporation by reference of a parent

application when a portion of the child application has been inadvertently omitted.

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

If petitioners desire that the examiner consider omitted Figures 22C and 22D as part of the original disclosure, then petitioners should submit Figures 22C and 22D as an amendment. Any such amendment will, of course, be compared with the prior application and reviewed by the examiner for new matter. See MPEP 608.02(a).

Figures 22C and 22D submitted with the petition will not be entered at this time.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of **March 15, 2002.** The sheet of drawings containing Figures 22C and 22D, filed April 30, 2002, will **not** be considered as part of the original disclosure at this time.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Alan S. Hodes
Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

MAIL

JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Ronald S. Watson
Application No. 10/100,288
Filed: March 14, 2002
For: VIRTUAL THREE-DIMENSIONAL DISPLAY FOR PRODUCT DEVELOPMENT

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on November 22, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has 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: Beyer Weaver & Thomas LLP
P.O. Box 70250
Oakland, CA 94612-0250

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.
10/100,290	03/18/2002	Keiichiro Tsukamoto	FUJS 19.547	6813

26304 7590 10/13/2009
KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

EXAMINER
MATTIS, JASON E

ART UNIT	PAPER NUMBER
2461	

MAIL DATE	DELIVERY MODE
10/13/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 13 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of:
TSUKAMOTO, KEIICHIRO
Application No. 10/100,290
Filed: March 18, 2002
For: ADD/DROP MULTIPLEXER AND INTERFACE

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed August 12, 2009 under 37 CFR § 1.181 requesting the withdrawal of the holding of abandonment of the above-identified application.

This application was held abandoned for failure to timely file a proper reply to the final rejection mailed on December 21, 2007. A Notice of Abandonment was mailed on July 20, 2009.

In support of the petition, petitioner stated that on June 23, 2008, the applicant timely filed electronically a Notice of Appeal, Pre-Appeal Brief Request for Review, and a Petition for Extension of Time of three months.
A review of the file, it reveals that the response dated June 23, 2008 was in fact timely filed.

For the above stated reasons, the petition is **GRANTED**. The Notice of Abandonment mailed on July 20, 2009 is hereby withdrawn.

The application file is being forwarded to the examiner to issue an appropriate Office.

Any inquiry regarding this decision should be directed to Huy Vu, Supervisory Patent Examiner, at (571) 272-3155.

Chau T. Nguyen
Workgroup Quality Assurance Specialist
Technology Center 2400

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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OCT 23 2009

OFFICE OF PETITIONS

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of
Tsukamoto
Application No. 10/100,290
Filed: March 18, 2002
Attorney Docket No. FUJS 19.547
For: ADD/DROP MULTIPLEXER AND INTERFACE

ON PETITION

This is a decision on the petition, filed August 12, 2009, requesting that the Office withdraw the holding of abandonment of the above-identified application. The petition will be treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office asserted that the application became abandoned as a result of applicant's alleged failure to timely file a proper follow-up submission within two (2) months of the Notice of Appeal, filed June 23, 2008. A Notice of Abandonment was mailed on July 20, 2009.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that a timely and proper submission was made on June 23, 2008. It is noted that applicant filed a Pre-Appeal Brief Request for Review when applicant filed the Notice of Appeal on June 23, 2008.

Per 1296 O.G. 67 (July 12, 2005): Effective immediately, the USPTO is offering applicants an optional procedure to review the examiner's rejection prior to the actual filing of an appeal brief. The program is intended to spare applicants the added time and expense of preparing an appeal brief if a panel review determines an application is not in condition for appeal. This pilot program offers applicants an opportunity to request a review of identified matters on appeal employing an appeal conference currently employed in the Office, but prior to the filing of an appeal brief.

The Notice went on to explain: The request must be filed with the filing of a notice of appeal and before the filing of the appeal brief. No extensions of time are available for filing the request for review. The time period for filing an appeal brief will be reset to be one month from mailing of the decision on the request, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief

is extendible under 37 CFR 1.136 based upon the mail date of the decision on the request or the receipt date of the notice of appeal, as applicable. To the extent that any existing USPTO rule is inconsistent with this pilot program, the rule is waived until regulations directed to pre-appeal brief conferences are promulgated, or the pilot program is ended. For example, if a request for a pre-appeal brief conference is filed with a notice of appeal, the time period set in 37 CFR 41.37(a)(1) is waived so that an appeal will not stand dismissed if an appeal brief is not filed within two months of the filing date of a notice of appeal, but is filed within one month of the decision on the request.

The USPTO extended the pilot pre-appeal brief conference program until further notice in an O.G. Notice (February 7, 2006).

The application is not abandoned because there has been no decision on the June 23, 2008 request. Thus, the time period for filing an appeal brief will be one month from the decision on the request.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the July 20, 2009 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

The application file will be forwarded to Technology Center A.U. 2461 for decision on the June 23, 2008 pre-appeal brief request for review.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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SUTHERLAND ASBILL & BRENNAN LLP - BASF
999 PEACHTREE STREET, NE
ATLANTA GA 30309

COPY MAILED

JUL 13 2007

OFFICE OF PETITIONS

In re Patent No. 7,105,723	:	
Issued: September 12, 2006	:	
Application No. 10/100,294	:	PATENT TERM ADJUSTMENT
Filed: March 18, 2002	:	
Dkt. No.: 16313-0095	:	

This is a decision on the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT RECONSIDERATION," filed September 18, 2006. This matter is being treated as an application for patent term adjustment pursuant to 37 CFR 1.705(d).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,105,723 on September 12, 2006. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 118 days. Patentee argues that the patent is entitled to an adjustment of 236 days, the adjustment having been improperly reduced 120 days in connection with the submission of a declaration on April 14, 2006.

A review of the application history reveals that an adjustment of 391 days can be attributed to the Office. This determination is undisputed by patentee.

The adjustment of 391 days was reduced 273 days for applicants' failure to engage in reasonable efforts to conclude prosecution.

Patentees dispute the reduction of 120 days in connection with the submission of a duplicate declaration on April 14, 2006. Patentees argue that the declaration, originally submitted July 9, 2002, was misplaced by the Office. The copy submitted April 14, 2006 was submitted at the request of the examiner, and, thus, is not a failure to engage in reasonable efforts to conclude prosecution.

In view thereof, the reduction of 120 days was in error and has been restored.

Accordingly, at the time of issuance, the application was entitled to a patent term adjustment of 238 days as argued by patentee.

Receipt is acknowledged of the required PTA application fee of $200.00.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 238 days.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Nancy Johnson for

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,105,723 B2

DATED : September 12, 2006

INVENTOR(S) : Haertel et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (118) days

Delete the phrase "by 118" and insert – by 238 days--

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CHOATE HALL & STEWART
EXCHANGE PLACE
53 STATE STREET
BOSTON, MA 02109

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APR 22 2005

OFFICE OF PETITIONS

In re Application of	:
Caplan et al	:
Application No. 10/100,303	: DECISION ON PETITION
Filed: March 18, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2002834-0166	:
(CIP11)	

This is a decision on the "PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED PRIORITY CLAIM UNDER 37 C.F.R. § 1.78," filed June 12, 2004. This petition is being treated under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application Number 60/077,763, filed March 13, 1998, as set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1). In this regard, the

amendment is not acceptable as drafted since it improperly incorporates by reference a prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS

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[1] *Note* 37 CFR 1.121

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Alesia M. Brown at (571) 272-3282.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109

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SEP 13 2006

OFFICE OF PETITIONS

In re Application of :
Caplan, et al : DECISION ON PETITION
Application No. 10/100,303 :
Filed: March 18, 2002 :
Dkt. No.: 2002834-0166 (CIP11- :
Redu :

This is a decision on the renewed "PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED PRIORITY CLAIM UNDER 37 C.F.R. § 1.78," filed August 5, 2005. This renewed petition is being treated under 37 C.F.R. § 1.78(a)(6) to accept an unintentionally delayed claim under 119(e) for the benefit of the prior filed provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. § 1.78(a)(6) is applicable to applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 C.F.R. § 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the grantable petition must be accompanied by:

(1) the reference required by 35 U.S.C. 119(e) and 37 CFR § 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth at 37 C.F.R. § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. § 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.

The petition does not satisfy item (1) above.

Application No. 10/100,303

The reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. 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. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 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).

In order for the incorporation by reference statement to be effective as a safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification as filed. See, In re deSeversky, 177 USPQ 144 (1973) and MPEP 201.06(c).

As the incorporation by reference statement was not present upon the filing of the instant application, the amendment as drafted cannot be accepted notwithstanding petitioners' argument that the statement would not introduce new matter.

Moreover, while petitioners argue that the contents of Provisional App. No. 60/077,763 were explicitly included in App. No. 09/267,719, a review of the record indicates that App. No. 09/267,719, while claiming priority to Provisional App. No. 60/077,763, did not incorporate by reference said provisional application on filing.

Any renewed petition is **required** to include a substitute amendment correcting the deficiencies noted herein.

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

Application No. 10/100,303

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3282.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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In re Application of	:
Caplan, et al	: DECISION ON PETITION
Application No. 10/100,303	:
Filed: March 18, 2002	:
Dkt. No.: 2002834-0166 (CIP11- Redu	:

This is a decision on the 37 CFR 1.78(a)(6), filed December 11, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

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.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C.

§119(e) and 37 CFR 1.78(a)(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 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 Petitions Attorney Alesia M. Brown at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1645 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 application.

Christina Tartera Donnell for

Frances Hicks
Lead 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
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/100,303	03/18/2002	1645	872	2002834-0166 (CIP11- Redu	104	40	3

CONFIRMATION NO. 9052
CORRECTED FILING RECEIPT
OC000000022694570
OC000000022694570

24280
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Date Mailed: 03/01/2007

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)

Michael J. Caplan, Woodbridge, CT;
Howard B. Sosin, Fairfield, CT;
Hugh Sampson, Larchmont, NY;
Gary A. Bannon, Wentzville, MO;
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Nina E. King, Mason, OH;
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Soheila J. Maleki, New Orleans, LA;
Patrick A. Rabjohn, Little Rock, AR;
David S. Shin, San Diego, CA;
J. Steven Stanley, North Little Rock, AR;

Power of Attorney:

Karoline Shair--44332

Domestic Priority data as claimed by applicant

This application is a CIP of 09/494,096 01/28/2000 ABN
which is a CIP of 09/267,719 03/11/1999 ABN
and is a CIP of 09/248,674 02/11/1999 ABN
and is a CIP of 09/248,673 02/11/1999 ABN
and is a CIP of 09/241,101 01/29/1999 ABN
and is a CIP of 09/240,557 01/29/1999 ABN
and is a CIP of 09/141,220 08/27/1998 ABN

and is a CIP of 09/106,872 06/29/1998 PAT 6,486,311
This application 10/100,303
is a CIP of 09/191,593 11/13/1998 PAT 6,835,824
which is a CON of 08/717,933 09/23/1996 ABN
which claims benefit of 60/009,455 12/29/1995
and said 09/267,719 03/11/1999
claims benefit of 60/077,763 03/12/1998
and claims benefit of 60/122,565 03/02/1999
and claims benefit of 60/122,560 03/02/1999
and claims benefit of 60/122,452 03/02/1999
and claims benefit of 60/122,450 03/02/1999
This application 10/100,303
claims benefit of 60/276,822 03/16/2001
and said 09/141,220 08/27/1998
claims benefit of 60/073,283 01/31/1998
and claims benefit of 60/074,590 02/13/1998
and claims benefit of 60/074,624 02/13/1998
and claims benefit of 60/074,633 02/13/1998
and said 09/494,096 01/28/2000
claims benefit of 60/122,566 03/02/1999

Foreign Applications

If Required, Foreign Filing License Granted: 05/02/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/100,303

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Methods and reagents for decreasing clinical reaction to allergy

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an

application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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555 EAST WELLS STREET
SUITE 1900
MILWAUKEE WI 53202

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JAN 11 2008

OFFICE OF PETITIONS

In re Application of	:	
Donald L. Yates	:	
Application No.: 10/100,319	:	ON PETITION
Filed: March 7, 2002	:	
Attorney Docket No.: MTI-31046-A	:	

This is a decision on the petition, filed January 9, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 28, 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 1765 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 7, 2008

TO SPE OF : ART UNIT 1637
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/100321 /6946251

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 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: _____

/Gary Benzion/

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of	:	
Venjataram Krishnan	:	
Application No. 10/100,331	:	DECISION ON PETITION
Filed: March 18, 2002	:	TO WITHDRAW
Attorney Docket No. 5458-226CT	:	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 24, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office [.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "termination of client representation for this matter due to transfer of ownership", does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: David S. Braden
Womble, Carlyle, Sandridge & Rice, PLLC
Post Office Box 13069
Research Triangle Park, NC 27709

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 14

GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

MAIL

NOV 03 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Lian et al..
Application No. 10/100,351
Filed: March 18, 2002
For: **MEMORY MODULE WITH AUDIO PLAYBACK MODE**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition received October 10, 2003 and supplemented with papers No. 12 and 13 (supplemental discussion of relevant art and supplemental statement indicating that the applications is directed to a single invention and that if it is determined that there is more than one invention, a willingness to elect without traverse, a single invention) 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.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778