UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC67 JUL 23 2004 PATENT & TRADEMARK OFFICE

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Paper No. 10

BY:

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

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JUN 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Tanaka, et al. :
Application No. 10/100,372 : ON PETITION
Filed: March 14, 2002 :
Attorney Docket No. 17815-302301 :
TOP 309

This is a decision on the petition under 37 CFR 1.137(b), filed May 26, 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 June 18, 2003. Accordingly, this application became abandoned on September 19, 2003. A Notice of Abandonment was mailed on January 28, 2004.

Please note, 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.

Furthermore, 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. As a one-time courtesy, 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 file is being forwarded to Technology Center 2800.

Copied from 10790810 on 08/17/2004

COPY

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

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

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OIPE JC99
JUL 23 2004
PATENT & TRA

RECEIPT NO. 14911 DATE: August 6, 2003
ATTY. TOP 309

APPLICANT(S): Sakae TANAKA et al.
SERIAL NO.: 10/100,372
FILED: March 14, 2002
FOR: MVA-LCD DEVICE WITH COLOR FILTERS ON A TFT ARRAY SUBSTRATE

PAPERS FILED:

1) Statement Under 37 CFR 3.73(b) and Revocation of Power of Attorney and Appointment of New Attorneys by Assignee

OIPE JC99
AUG 06 2003
PATENT & TRADEMARK OFFICE

FEE: $ 0.00 (CHECK NO.:)
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Paper No. 10

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

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JUN 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Tanaka, et al. :
Application No. 10/100,372 : ON PETITION
Filed: March 14, 2002 :
Attorney Docket No. 17815-302301 :
TOP 309

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The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed June 18, 2003. Accordingly, this application became abandoned on September 19, 2003. A Notice of Abandonment was mailed on January 28, 2004.

Please note, 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.

Furthermore, 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. As a one-time courtesy, 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 file is being forwarded to Technology Center 2800.

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

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

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Paper No. 5

JAMES M. COSTELLO
219 2ND STREET
KEY LARGO, FL 33037

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MAY 24 2004

OFFICE OF PETITIONS

In re Application of
Costello
Application No. 10/100,385
Filed: March 18, 2002
For: TOUCH TUNNEL

ON PETITION

This decision concerns the February 3, 2004 petition under 37 CFR 1.137(a) to revive the above-referenced application.

The petition is **DISMISSED.**

The application was filed on March 18, 2002 along with an unsigned declaration and a $355 check intended for the $370 application basic filing fee (small entity).

On April 15, 2002, a "Notice to File Missing Parts of Nonprovisional Application" ("4/15/02 Notice") was mailed, setting forth an extendable 2-month period for paying the $15 filing fee deficiency, a properly signed oath or declaration, and the $65 surcharge (small entity) for late filing of the fee and a signed oath or declaration. These items were not filed on or before June 15, 2002, and no extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned on June 16, 2002.

The instant petition asserts non-receipt of the 4/15/02 Notice, implying that the application should not have been held abandoned.

Implied request to withdraw the holding of abandonment in the application
(37 CFR 1.181)

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, in the instant case, consists of:[2]

---

[1] 1156 OG 53 (Oct. 25, 1993). The 4/15/02 Notice was mailed to the correspondence-address-of-record for this application.

[2] *Id.*

(1) a statement:

(A) that Applicant did not receive the 4/15/02 Notice;

(B) attesting, by referencing the docket record in (2) below, that a search of the relevant docket records indicates that the 4/15/02 Notice was not received; and

(2) a copy of the docket record where the 4/15/02 Notice would have been docketed had it been received.

The petition lacks items (1)(B) and (2). Accordingly, the holding of abandonment in the instant application will not be withdrawn.

Petition to revive under 37 CFR 1.137(a)

The petition seeks to revive the application under the "unavoidable delay" standard of 37 CFR 1.137(a).

A grantable petition under 37 CFR 1.137(a), in the instant case, must include:

(1) the $30 filing fee deficiency, a properly signed oath or declaration, and the $65 surcharge (small entity) for late filing of these items;[3]
(2) the $55 petition fee (small entity);
(3) a **showing** to the satisfaction of the Commissioner that the entire delay in filing these items from the due date until the filing of a grantable §1.137(a) petition was unavoidable.[4]

Item (1) is not met, in that, the petition encloses a payment of $15, resulting again in a deficiency of $80; and that, the petition is not accompanied by a signed oath or declaration.

As to item (3), in addition to asserting non-receipt of the 4/15/02 Notice, Applicant has not provided any evidence or argument for the Office to conclude that the entire delay in filing the declaration and the fees was "unavoidable" within the meaning of 37 CFR 1.137(a). The petition is thus dismissed.

---

[3] The application basic filing fee (small entity) increased to $385 on 10/1/03.

[4] For example, health or financial problems that prevented Applicants from timely responding to the 1/28/02 Notice. Also, an intentional delay in seeking the revival of an abandoned application precludes a finding of unavoidable delay under 37 CFR 1.137(a). See MPEP section 711.03(c)(III)(D) (Rev. 1, Feb. 2003); 35 U.S.C. 133; Douglas v. Manbeck, 21 U.S.P.Q.2d 1697; 1991 U.S. Dist. LEXIS 16404, 16412-13 (E.D. Pa. 1991); In re Takao, 1990 Dec. Comm'r Pat. 6, 10 (Comm'r Pat. 1990), 7 U.S.P.Q.2d 1155, citing Ex Parte Naef, 1905 Dec. Comm'r Pat. 121 (Comm'r Pat. 1905).

Options

A renewed petition under §1.181 or §1.137(a) (no petition fee) must:

-be filed within **TWO MONTHS** of the mailing date of this decision; and
-comply with the requirements discussed above.

Extensions of time under 37 CFR 1.136(a) are available with payment of the appropriate fee(s).

A petition under either of the options should be addressed as follows:

Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Finally, **Applicant is urged to contact the undersigned** at (703) 308-0763 for a clarification of this decision.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

JAMES M. COSTELLO
219 2ND STREET
KEY LARGO, FL 33037

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JUL 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Costello :
Application No. 10/100,385 : ON PETITION
Filed: March 18, 2002 :
For: TOUCH TUNNEL :

This decision concerns the July 8, 2004 correspondence which, in conjunction with the attachment, is in fact a renewed petition to withdraw the holding of abandonment in the above-referenced application.

The petition is **GRANTED.**

The application was held abandoned as of June 16, 2002 for failure to timely submit a proper reply to the April 15, 2002 "Notice to File Missing Parts of Nonprovisional Application" ("4/15/02 Notice"). Specifically, the 4/15/02 Notice set forth an extendable 2-month period for submitting the application basic filing fee deficiency and a properly signed oath or declaration.

The February 3, 2004 petition was dismissed, in that, it was not accompanied by the requisite docket record for a grantable petition to withdraw the holding of abandonment in the application, nor did it meet the requirements for a grantable petition to revive the application.

The renewed petition encloses docket records indicating that Applicant did not receive the 4/15/02 Notice. Also accompanying the petition are: a signed declaration and a $110 payment. The USPTO finance data on this application are as follows:

-$355	(paid 3/18/02)
$385	(correct amount for application basic filing fee, small entity)
-$55	(paid 2/3/04)
-$15	(paid 2/3/04)
-$110	(paid 7/8/04)
$65	(surcharge; late filing of basic filing fee and/or signed oath/declaration)
-$40	(refund issued on 7/13/04)
-$45	**(overpayment to be refunded)**

The holding of abandonment in this application is hereby withdrawn and the January 8, 2004 Notice of Abandonment vacated. The petition is thus granted. No petition fee is owed.

The application is being forwarded to Technology Center 3600 for examination in due course.

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

RC Tang
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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Paper No. 11

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

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NOV 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Copeland et al. :
Application No. 10/100,443 : DECISION ON PETITION
Filed: March 18, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 00,509 :

This is a decision on the petition, filed May 23, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is dismissed as **MOOT**.

Petitioner states that the present nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on March 18, 2003. A review of the file record discloses that a Notice to Rescind was received in the USPTO on October 11, 2002.

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

In the present application, a notice to rescind was filed prior to the filing date of a counterpart application in an eighteen month publication country. Therefore, this application is not regarded as abandoned because the USPTO's receipt of the request to rescind prior to the filing date of a counterpart application in an eighteen-month publication country resulted in the annulment of the nonpublication request. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

This application is not in fact abandoned. For the reason stated above, the petition fee of $1,300.00 is being credited to Deposit Account No. 13-2490 as authorized.

This application is being forwarded to Technology Center 1616.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SIEMENS CORPORATION
ATTN: ELSA KELLER, LEGAL ADMINISTRATOR
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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AUG 25 2006

OFFICE OF PETITIONS

In re Application of :
Antoine J. Rouphael :
Application No. 10/100,452 : ON PETITION
Filed: March 18, 2002 :
Attorney Docket No. 2002P03464US :

This is a decision on the petition under 37 CFR 1.137(b), filed April 17, 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 September 29, 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 30, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020 extension of time submitted on June 24, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

This matter is being referred to Technology Center AU 2686 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: David D. Chung
Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

UNITED STATES 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 M. KETTNER
QUARLES & BRADY LLP
1 SOUTH PINCKNEY STREET
P O BOX 2113
MADISON WI 53701-2113

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OCT 3 1 2008

OFFICE OF PETITIONS

In re Patent No. 7,306,698	:	
Application No. 10/100,469	:	
Filed: March 18, 2002	:	ON PETITION
Issued: December 11, 2007	:	
Attorney Docket No. 960296.97309	:	

This is a decision on the petition filed July 25, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the third assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

OIPE
MAY 31 2002
PATENT & TRADEMARK OFFICE

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Receipt #8

PATENT
ATTORNEY DOCKET NO. 50026/012005

Certificate of Mailing: Date of Deposit: May 22, 2002

I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Elaine Fabrizio
Printed name of person mailing correspondence

Elaine Fabrizio
Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Keiya Ozawa et al.	Art Unit:	1642
Serial No.:	10/100,471	Examiner:	
Filed:	March 18, 2002	Customer No.:	21559
Title:	GENE THAT IMPARTS SELECTIVE PROLIFERATIVE ACTIVITY		

Assistant Commissioner For Patents
Washington, D.C. 20231

PETITION TO CORRECT FILING RECEIPT

Applicants request that the attached filing receipt be corrected as follows: Under Domestic Priority data as claimed by application, delete "ABN", and under Foreign Applications, add --JP 8-47796 filed on 03/05/1996--.

Attached is a copy of the incorrect filing receipt and a copy of the Utility Patent Application Transmittal showing the correct foreign priority information. Also attached is a copy of U.S. Patent Office Decision issued in response to the Request to Withdraw the Holding of Abandonment that was filed on February 28, 2002 in connection with the 09/142,305 application. As is stated in this Decision, the 09/142,305 application has been returned to pending status.

If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date: 22 May 2002

James D. DeCamp, Ph.D.
Reg. No. 43,580

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110
Telephone: 617-428-0200
Facsimile: 617-428-7045

F:\50026\50026.012005 Petition to Correct Filing Receipt.wpd

21559
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MAY 31 2002 JC37

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

James D. DeCamp
Clark & Elbing LLP
176 Federal Street
Boston, MA 02110

RECEIVED
MAR 18 2002

Paper No. 10

In re Application of:
OZAWA et al
Serial No.: 09/142,305
Filing Date: September 10, 1999
For: GENE THAT IMPARTS SELECTIVE PROLIFERATIVE ACTIVITY
Attorney's Docket No. 50026/012001

2 8 2002
FILING

PETITION DECISION

This is in response to " communication" filed February 28, 2002. The communication is treated as "PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW HOLDING OF ABANDONMENT".

On June 21, 2001, a restriction was mailed to applicant. On January 29, 2002, a Notice of Abandonment was mailed which indicated that the application was abandoned for failing to timely file a proper reply to the Office letter mailed June 21, 2001. On February 28, the present petition was filed. The petition asserts that a "REPLY TO RESTRICTION REQUIREMENT" was timely filed on July 13, 2001. A copy of the postcard bearing the PTO stamp indicating that it was received on July 16, 2001 is also attached.

Accordingly, the petition is Granted. The application has been returned to pending status. The application is being forwarded to examiner after mailing of this decision.

PETITION GRANTED.

Charles Tsang for
Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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In re Patent No. 7,587,126 :
Issued: September 8, 2009 :
Application No. 10/100,484 : ON PETITION
Filed: March 14, 2002 :
Attorney Docket No. 16869N-046800US :

This is a decision on the petition under 37 CFR 3.81 (b), filed October 30, 2009, which is being treated as a petition under 37 CFR 1.182, to correct the spelling of the name of inventor "Hitaoki Owashi" to – Hitoaki Owashi – by way of a Certificate of Correction.

The petition is **GRANTED**.

A review of USPTO records reveals an error on the part of the Office in entering the above-identified inventor's name.

Accordingly, since petitioner has submitted an unnecessary $100.00 Certificate of Correction fee and $130.00 petition surcharge fee, these fees will be refunded to petitioner's deposit account in due course.

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

The matter is being referred to the Certificate of Corrections Branch for processing of the Certificate of Correction.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 1/6/10

2 Serial/Patent # 10/100484

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
/	Petition			$ 130.00
	Issue			$
/	Cert of Correction/Terminal Disc.			$ 100.00
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 230.00

8 TO BE REFUNDED BY:

	Treasury Check
	Credit Deposit A/C #:

9 2 0 -- 1 4 3 0

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

USPTO error

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Joan Olszewski TITLE: Petition Examiner

SIGNATURE: _____ PHONE: 571-272-7751

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: _____ DATE: 1/6/10

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
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

THE LAW OFFICES OF MIKIO ISHIMARU
1110 SUNNYVALE-SARATOGA ROAD
SUITE A1
SUNNYVALE, CA 94087

COPY MAILED

APR 15 2003

OFFICE OF PETITIONS

In re Application of :
Jean Y. Yang et al :
Application No. 10/100,485 : DECISION GRANTING PETITION
Filed: March 14, 2002 : UNDER 37 CFR 1.137(f)
Attorney Docket No. AF01132 :

This is a decision on the petition, filed by facsimile transmission on April 4, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in a foreign country on January 21, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until

the filing of a grantable petition was unintentional.

The instant petition has been found in compliance with 37 CFR 1.137(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [Notice to Rescind Previous Nonpublication Request Under 35 U.S.C. § 122(b)(2)(B)(ii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice of Acceptance of Publication Request 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 2829 to await a reply to the nonfinal Office action mailed March 31, 2003. Failure to timely reply within the shortened statutory time period set will again result in the abandonment of the application.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DELPHINE JAMES
2656 SOUTH LOOP WEST
SUITE 170
HOUSTON TX 77054

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JUN 26 2008

OFFICE OF PETITIONS

In re Application of :
Christian Osita Nweke :
Application No.: 10/100489 : DECISION ON
Filing or 371(c) Date: 06/11/2002 : PETITION
Title of Invention: :
HYDROGEN INJECTION POWERED :
AUTOMOBILE ENGINE :

This is a decision in response to the Petition To Withdraw Holding of Abandonment, filed April 30, 2008, The petition is properly treated under 37 CFR 1.181.

This Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed August 27, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply in the form of an Amendment, albeit not within two (2) months of the mail date of the Office action, on December 27, 2007; however, the Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed March 5, 2008.

No complete and proper reply having been received, the application became abandoned on November 28, 2007. A Notice of Abandonment was mailed April 1, 2008.

Petition under 37 CFR 1.181

Applicant files the instant petition requesting withdrawal of the holding of abandonment because the Advisory Action was not timely mailed to Applicant. In support of this assertion, Applicant cites to MPEP 714.13 and asserts that the Exminer should have responded by January 27, 2008. If the Examiner had responded, Applicant states that he could have placed the application in condition for allowance and avoid additional fee/prosecution.

Applicable Law, Rules and MPEP

37 CFR 1.135, Abandonment for failure to reply within time period, provides that

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. (Emphasis supplied).

MPEP 711.03(c)

The MPEP 711.03(c)(I)(A), Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, explains that

> [e]vidence 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).

Analysis and conclusion

In this instance, Applicant filed a reply to the final Office action; however, the reply failed to place the application in condition for allowance. The application became abandoned for failure to file "such complete and proper reply as the condition of the application may require." The failure to receive the advisory action prior to abandonment of the application does not warrant withdrawal of the holding of abandonment. Applicant attempts to rely upon the MPEP 714.13. That section states:

> If an applicant initially replies within 2 months from the date of mailing of any final rejection setting a 3-month shortened statutory period for reply and the Office does not mail an advisory action until after the end of the 3-month shortened statutory period, the period for reply for purposes of determining the amount of any extension fee will be the date on which the Office mails the advisory action advising applicant of the status of the application, but in no event can the period extend beyond 6 months from the date of the final rejection. This procedure applies only to a first reply to a final rejection. (Emphasis supplied).

In discussing an Examiner's response to an amendment after final, the MPEP advises that "[a]n examiner is expected to turn in a response to an amendment after final rejection within 10 calendar days from the time the amendment is received by the examiner. A reply to an amendment after final rejection should be mailed within 30 days of the date the amendment is received by the Office. The section does not require an examiner to act within 10 calendar days, or to mail a reply to an after-final amendment within 30 days. Moreover, as stated *supra*, the failure of this Office to notify an applicant of deficiencies in a reply to a final Office action will not save an application from abandonment. It is Applicant's responsibility to file a complete and proper reply as the condition of the application may require, in the first instance.

Alternative venue

Applicant is urged to file a petition stating that the delay was unintentional. An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

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

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning the Amendment should be directed to the Examiner. Questions regarding this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DELPHINE JAMES
2656 SOUTH LOOP WEST
SUITE 170
HOUSTON TX 77054

COPY MAILED

SEP 2 4 2008

In re Application of	:	
Christian Osita Nweke	:	
Application No.: 10/100489	:	DECISION ON
Filing or 371(c) Date: 06/11/2002	:	PETITION
Title of Invention:	:	
HYDROGEN INJECTION POWERED	:	
AUTOMOBILE ENGINE	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 29, 2008, to revive the above-identified application.

This Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed August 27, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply in the form of an Amendment, albeit not within two (2) months of the mail date of the Office action, on December 27, 2007; however, the Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed March 5, 2008.

No complete and proper reply having been received, the application became abandoned on November 28, 2007. A Notice of Abandonment was mailed April 1, 2008.

Petition under 37 CFR 1.181

Applicant filed a petition requesting withdrawal of the holding of abandonment because the Advisory Action was not timely mailed to Applicant. In support of this assertion, Applicant cited to MPEP 714.13 and asserted that the Examiner should have responded by January 27, 2008. If the Examiner had responded, Applicant stated that Applicant could have placed the application in condition for allowance and avoid additional fee/prosecution.

The petition was dismissed in a Decision mailed June 26, 2008. The Decision dismissing the petition stated that the failure to receive the advisory action prior to abandonment of the application does not warrant withdrawal of the holding of abandonment. Regarding the MPEP 714.13, the Decision noted that the section does not require an examiner to act within 10 calendar days, or to mail a reply to an after-final amendment within 30 days, and that it is Applicant's responsibility to file a complete and proper reply as the condition of the application may require, in the first instance.

The present petition

Applicant files the present petition, and as a reply refers to the Amendment filed December 27, 2007.

Applicable law, Rules and MPEP

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 present petition and amendment

The Examiner reviewed the Amendment and concluded that the Amendment fails to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed March 5, 2008.

Applicant is advised that in an application abandoned for failure to file a complete and proper reply to a final rejection, the reply must be as follows:

> (b) Abandonment for Failure To Reply to a Final Action
> A reply under 37 CFR 1.113 to a final action must include a request for continued examination (RCE) under 37 CFR 1.114 or cancellation of, or appeal from the rejection of, each claim so rejected. Accordingly, in a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:
> (A) a Notice of Appeal and appeal fee;
> (B) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance;
> (C) the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995 (see paragraph (d) below); or

(D) the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).
When a notice of appeal is the reply filed pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1), the time period under 37 CFR 41.37 for filing the appeal brief will be set by the Director of the USPTO in the decision granting the petition.

MPEP 711.03(c).

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Inquiries regarding the Amendment should be directed to the Examiner. Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DELPHINE JAMES
2656 SOUTH LOOP WEST
SUITE 170
HOUSTON TX 77054

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DEC 0 8 2008

In re Application of	:	
Christian Osita Nweke	:	
Application No.: 10/100489	:	DECISION ON
Filing or 371(c) Date: 06/11/2002	:	PETITION
Title of Invention:	:	
HYDROGEN INJECTION POWERED	:	
AUTOMOBILE ENGINE	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 24, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed August 27, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply in the form of an Amendment, albeit not within two (2) months of the mail date of the Office action, on December 27, 2007; however, the Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed March 5, 2008.

No complete and proper reply having been received, the application became abandoned on November 28, 2007. A Notice of Abandonment was mailed April 1, 2008.

Applicant filed a petition requesting withdrawal of the holding of abandonment because the Advisory Action was not timely mailed to Applicant. In support of this assertion, Applicant cited to MPEP 714.13 and asserted that the Examiner should have responded by January 27, 2008. If the Examiner had responded, Applicant stated that Applicant could have placed the application in condition for allowance and avoid additional fee/prosecution.

The petition was dismissed in a Decision mailed June 26, 2008. The Decision dismissing the petition stated that the failure to receive the advisory action prior to abandonment of the application does not warrant withdrawal of the holding of abandonment. Regarding the MPEP 714.13, the Decision noted that the section does not require an examiner to act within 10 calendar days, or to mail a reply to an after-final amendment within 30 days, and that it is

Applicant's responsibility to file a complete and proper reply as the condition of the application may require, in the first instance.

Applicant filed a petition to revive the application under 37 CFR 1.137(b) on July 29, 2008, and as a reply referred to the Amendment filed December 27, 2007; however, the Amendment failed to place the application in condition for allowance, and the petition was dismissed in a Decision mailed September 24, 2008.

The present renewed petition

Applicant files the present renewed petition and a Request for Continued Examination and Submission in the form of an Amendment.

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 (and the submission required by 37 CFR 1.114; (2) the petition fee (previously submitted); and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 1795 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) 272-3232.

/Derek L. Woods/
Derek L. Woods
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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OFFICE OF PETITIONS

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

In re Application of	:	
Daniel Plastina et al	:	
Application No. 10/100,513	:	ON PETITION
Filed: March 21, 2002	:	
Attorney Docket No. MS1-1123US	:	

This is a decision on the petition, filed December 20, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 6, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2837 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

TOWNSEND AND TOWNSEND AND CREW LLP
8TH FLOOR
TWO EMBARCADERO CENTER
SAN FRANCISCO CA 94111

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APR 3 0 2003

OFFICE OF PETITIONS

In re Application of
Quiggle, et al.
Application No. 10/100,517
Filed: March 14, 2002
Docket No. 017887-004510US

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition for Filing of a Patent Application When One Joint Inventor is Unavailable to Execute Papers Under 37 CFR 1.47(b)", filed November 18, 2002, which is being treated as a petition under 37 CFR 1.47(a).[1]

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

The above-identified application was filed on March 14, 2002, without an executed oath or declaration. Accordingly, on April 12, 2002, applicant was mailed a Notice to File Missing Parts of Nonprovisional Application, requiring, *inter alia*, an executed oath or declaration. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition. To make timely this reply, applicant purchased a five month extension of time. Accompanying the petition was a declaration executed by joint inventors Thomas Quiggle and Farzad Nazem, but lacking a signature from joint inventor Robert Alan Wright.

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, 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.

---

[1] A petition under 37 CFR 1.47(b) only applies when all of the inventors have refused to join the application for patent.

On petition, Rule 47 applicant a statement of facts from Chun-Pok Leung, transmitting the application papers. According to Leung, a copy of the application papers was forwarded to Wright on September 15, 2001. Furthermore, a declaration was forwarded to Wright on July 9, 2002. According to Leung, no executed declaration from Wright has been received.

The instant petition has been reviewed and determined to be in compliance with 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2100, Group Art Unit 2152, for docketing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402-0938

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
John Mitchell, Alan Heard, Steven Corbett and :
Nicholas Daniel : DECISION ON PETITION
Application No. 10/100,546 :
Filed: March 18, 2002 :
Attorney Docket No. 1365.058US2 :
Title of Invention: Method and Apparatus For :
Processing the Output of A Speech :
Recognition Engine

This is in response to the petition under 37 C.F.R. §1.47(a), filed June 29, 2005. This petition is properly treated as a petition for waiver under 37 CFR 1.183 of requirement for supplemental Declaration under 37 CFR 1.67 [1]

The petition is **Granted**.

The above-identified application is a divisional application which was filed on March 18, 2002, with the executed declaration from application 09/275,287.

Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather the remedy for treating an inventor's refusal to sign a supplemental declaration is waiver of 37 CFR 1.67. See MPEP 603. Nevertheless, it is appropriate to apply the principles of 37 CFR 1.47 thereof to the situation at hand. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate and on behalf of the non-signing inventor. See MPEP 409.03(a).

In order for a petition under 37 CFR 1.183 to be granted to waive this requirement that joint inventor Corbett sign the supplemental declaration, petitioner must demonstrate

[1] 37 CFR 1.47 only applies when an inventor refuses to sign the original 37 CFR 1.63 oath or declaration.

this is an extraordinary situation where justice requires waiver of the rules.

On petition, applicants have set forth the steps taken to locate inventor Corbett. Sufficient evidence has not been presented to establish that diligent effort was used to locate inventor Corbett. Under the circumstances, it is concluded that petitioner has demonstrated that this is an extraordinary situation requiring waiver of the rules.

It is also noted that rule 47 applicant has submitted a declaration executed by a representative of assignee. Under 37 CFR 1.47(b) it may be appropriate for a representative to execute a declaration on behalf of an assignee. Where at least one inventor executes a declaration, a petition under 37 CFR 1.47(a) is appropriate. Under 37 CFR 1.47(a), an oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated. The declaration signed by assignee's representative should not be used. The Office does however, contain a declaration which is executed by the signing inventors and does not contain assignee's signature.

The current fee for a petition under 37 CFR 1.183 is $400.00, deposit account 19-0743 will be charged the $200.00 difference.

This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper.

This decision is being forwarded to the Office of Patent Publication.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE: D. Wu

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/8/06

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/100,557 Patent No.: 6924342

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: Change to column 84 is denied because the corrections cannot be made. It must be the wrong citations.

D. Wu — SPE

1713 — Art Unit

O.I.P.E. JC103 DEC 18 2003 PATENT & TRADEMARK OFFICE

image

2875

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Claes Bertil BLOM

Group Art Unit: 2875

Application No. 10/100,633

Examiner: Dalei Dong

Filed: March 15, 2002

For: OPTICAL CARRIER

EXPRESS ABANDONMENT

GAU 2875
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 27 C.F.R. § 1.138, applicant hereby expressly abandons the subject application.

Respectfully submitted,

December 16, 2003

Lawrence E. Laubscher, Jr.
Registration No. 28,233
1160 Spa Road, Suite 2B
Annapolis, MD 21403
Telephone: (410) 280-6608

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: GAU 2875,Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on **December 16, 2003.**

Shelly Hubbard

Signature Shelly Hubbard

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI OH 45224

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SEP 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Adams et al.	:	
Application No. 10/100,637	:	ON PETITION
Filed: March 18, 2002	:	
Attorney Docket No. 8884L$	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 7, 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 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Thomas A. Walsh
Ice Miller
One American Square
Box 82001
Indianapolis, IN 46282-0002

MAILED

DEC 21 2004

Technology Center 2100

In re Application of:
John R. RICE, et al.
Application No. 10/100,682
Filed: March 18, 2002
For: METHOD AND SYSTEM FOR SECURE COMPUTATIONAL OUTSOURCING AND DISGUISE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02, Section IV: Applicant's Age, filed November 3, 2004 to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102(c) and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement that the applicant, John R. Rice, is over sixty five (65) years of age.

Accordingly, the petition is GRANTED. The application is being forwarded to the examiner for expedite prosecution.

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

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POPVICH, WILES & O'CONNELL, PA
650 THIRD AVENUE SOUTH
SUITE 600
MINNEAPOLIS, MN 55402

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FEB 07 2007

OFFICE OF PETITIONS

In re Application of :
John C. Oslund et al :
Application No. 10/100,686 : DECISION ON PETITION
Filed: March 14, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 19369/117/101 :

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed January 22, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for benefit of priority to prior-filed provisional Application No. 60/276,689, filed March 16, 2001.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed provisional application. While a reference to the prior-filed provisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the declaration filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed provisional application in the declaration filed with the application, as shown by its inclusion on the filing receipt.

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

While no petition is required herein for accepting a late claim for priority to the prior-filed provisional application, petitioner should note that, even though the Office has recognized the benefit claim by the inclusion on applicant's filing receipt, the benefit claim is not a proper benefit claim under 35 U.S.C. § 119(e) and 37 CFR 1.78 unless the reference is included in an Application Data Sheet or in the first sentence of the specification and all other requirements are met.

In view of the above, the petition is dismissed as involving a moot issue. No surcharge fee is required for the present petition and none has been assessed to petitioner's deposit account.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3735 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application.

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

POPOVICH, WILES & O'CONNELL, PA
650 THIRD AVENUE SOUTH
SUITE 600
MINNEAPOLIS, MN 55402

COPY MAILED

JAN 22 2007

OFFICE OF PETITIONS

In re Application of	:	
John C. Oslund et al	:	
Application No. 10/100,686	:	DECISION GRANTING PETITION
Filed: March 14, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 19369/117/101	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 13, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is will be retained in the Office of Petitions for action in due course on the petition under 37 CFR 1.78(a)(6) filed concurrently with the present petition.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Jan10\100686

[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 : 2/16/06

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction on Patent No.: patent 6,976,300

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

OK to enter V.N 2/23/06

VIET Q. NGUYEN
PRIMARY EXAMINER

SPE

2827
Art Unit

USPTO FEB 07 2006 PATENT & TRADEMARK OFFICE

10/100702

COFC

Patent 6,976,300 PATENT

IN UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	6,976,300 B2	Docket No:	303.571U11
Issue Date:	December 20, 2005	Patentee:	Kie Y. Ahn et al.
Customer No.:	21186	Confirmation No.:	3690
Title	INTEGRATED CIRCUIT INDUCTORS		

REQUEST FOR CERTIFICATE OF CORRECTION

Certificate
FEB 13 2006
of Correction

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: CERTIFICATE OF CORRECTION BRANCH

It is requested that a Certificate of Correction be issued correcting printing errors appearing in the above-identified United States patent. Two copies of the text of the Certificate in the suggested form are enclosed.

Issuance of the Certificate of Correction would neither expand nor contract the scope of the claims as properly allowed, and re-examination is not required.

As the error is that of the Patent Office, it is believed that no fee is due.

The Examiner is authorized to charge any additional fees or credit overpayment to Deposit Account No.19-0743.

OK TO enter in 2/23/06

Respectfully Submitted

KIE Y. AHN ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6900

Date: 2/2/2006

By: _____
Viet V. Tong
Reg. No: 45,416
VVT:rbs

CERTIFICATE UNDER 37 CFR § 1.8: The undersigned hereby certifies 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, P.O. Box 1450 Alexandria, VA 22313-1450, on this 2 day of February 2006

Ryan Saunders
Name

Signature

FEB 13 2006

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,976,300 B2

DATED : December 20, 2005

INVENTOR(S) : Ahn 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 face page, in field (56), under "U.S. Patent Documents", in column 1, line 1, after "Haberecht" insert - - 29/602 - -.

On the face page, in field (56), under "U.S. Patent Documents", in column 1, line 2, delete "Fuelner et al." and insert - - Feulner et al. 29/602 - -, therefor.

On the face page, in field (56), under "U.S. Patent Documents", in column 1, line 2, below "3,561,110" insert - - 3,614,554 10/1971 Richardson et al. 317/235R
3,691,497 09/1972 Bailey et al. 336/192 - -.

On the face page, in field (56), under "U.S. Patent Documents", in column 1, line 3, after "Shearman" insert - - 179/100.2C - -.

On the face page, in field (56), under "U.S. Patent Documents", in column 1, line 5, after "Cline et al." insert - - 357/51 - -.

On the face page, in field (56), under "U.S. Patent Documents", in column 1, line 6, below "3,996,095" insert - - 4,024,565 05/1977 Anthony et al. 357/51 - -.

On the face page, in field (56), under "U.S. Patent Documents", in column 1, line 7, below "4,560,445" insert - - 4,729,510 03/1988 Landis 333/162
4,839,659 06/1989 Stern et al. 343/700
4,845,452 07/1989 Sasaki et al. 336/200

OK to enter /W 2/23/06

MAILING ADDRESS OF SENDER:

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

PATENT NO. 6,976,300

No. of additional copies ____

Atty Docket No: 303.571U11

FEB 13 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWEGMAN, LUNDBERG, WOESSNER
& KLUTH
1600 TCF TOWER
121 SOUTH EIGHT STREET
MINNEAPOLIS MN 55402

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of :
Kie Y. Ahn et al :
Application No. 10/100,720 : ON PETITION
Filed: March 18, 2002 :
Attorney Docket No. 303.571U13 :

This is a decision on the petition, filed February 16, 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 October 17, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2827 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.

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

COPY MAILED

JAN 2 4 2006

OFFICE OF PETITIONS

In re Patent No. 6,884,784	:	
Mitchell et al.	:	
Issue Date: April 26, 2005	:	DECISION ON
Application No. 10/100,759	:	PETITION
Filed: March 19, 2002	:	
Atty Docket No. 50150/020003	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed June 27, 2005. Patentees request that the patent term adjustment indicated in the patent be corrected from two hundred twenty (220) days to five hundred nine (509) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred twenty-two **(222)** days.

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

On April 26, 2005, the above-identified application matured into U.S. Patent No. 6,884,784, with a revised Patent Term Adjustment of 220 days. The instant request for reconsideration filed June 27, 2005 (certificate of mailing June 22, 2005) was timely filed within 2 months of the date the patent issued. See § 1.705(d). Patentees assert that an additional period of adjustment should have been entered for Office delay in mailing the notice of allowance on January 16, 2004. Patentees contend that this Notice was mailed 283 days later than the allowed four months, resulting in a Patent Office delay of 283 days. Patentees also assert that the issuance date of the patent was 305 days later than the allowed four months, resulting in a Patent Office delay of 305 days, not 299 days as shown in the PTA calculations for this patent.

As to entry of an additional period of adjustment of 283 days, patentees are incorrect. As acknowledged by patentees the notice of allowance mailed January 16, 2004, was mailed in response to their reply received December 8, 2003. As January 16, 2004 is, in fact, within four months of December 8, 2003, there was no Office delay within the meaning of § 1.702(a)(2).

As to the entry of a period of adjustment of 305 days pursuant to § 1.702(a)(4), patentees are correct. The record confirms that the issue fee payment was received in the Office on February 25, 2004, not March 1, 2004. As the patent issued, four months and 305 days later on April 26, 2005, a period of adjustment of 305 days should have been entered.

However, a review of the record reveals a further basis for reduction of the patent term adjustment. A Notice to File Corrected Application Papers was mailed on April 19, 2002. Applicants did not file a (complete and proper) response until July 23, 2002, three months and 4 days later. Accordingly, pursuant to § 1.704(b), a period of reduction of 4 days should have been entered.

In view thereof, the patent should have issued with a revised patent term adjustment of 222 days.

The Office acknowledges submission of the $200 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : November 26,2007

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/100,778 Patent No.: 7220709 B1

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

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

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

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: CORRECTS DRAWING ORIGINALLY FILED

1791

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

Law Offices of Karl Hormann
P.O. Box 381516
Cambridge MA 02238-1516

COPY MAILED

SEP 0 8 2005

OFFICE OF PETITIONS

In re Application of :
ZUCKER et al. :
Application No. 10/100,794 :
Filed: March 19, 2002 :
Attorney Docket No. 010486-US :

DECISION
ON PETITION

This is a decision on the petition filed October 4, 2004, which has been treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181 because no fee has been provided.

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 1.1818 to Withdraw Holding of Abandonment." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

An Office Action (Election of Species requirement) was mailed to the correspondence address of record on September 26, 2003, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 27, 2003.

The instant petition was filed October 4, 2004. Petitioner apparently relies upon, but does not cite, Delgar, Inc. v. Schuyler, 172 USPQ 513 (D.D.C. 1971) in support of petitioner's contention that, in light of the showing of record bearing on counsel's non-receipt of the Office Action, it is erroneous to hold that this application is abandoned.

Initially, there is no dispute that a reply was not submitted within the period required by the outstanding Office Action of September 26, 2003. Therefore, this application is properly considered abandoned by operation of law (35 USC § 151 and § 133). It is petitioner's burden to demonstrate, as in Delgar, that petitioner did not receive the aforementioned Office Action, for a withdrawal of the holding of abandonment to be warranted.

A review of the written record indicates no irregularity in the mailing of the Office Action, and in the absence of any irregularity there is a strong presumption that the Office Action was properly mailed to counsel at the address of record. This presumption may be overcome by a

showing that the Office Action was not in fact received. The showing required to establish the failure to receive an Office communication must consist of:

(1) a first-hand statement from the practitioner stating that the Office Action was not received by the practitioner,

(2) his attestation to the fact that a search of the file jacket and docket records indicates that the Office Action was not received, and

(3) a copy of the docket record where the non-received Office Action would have been entered had it been received and docketed must be attached to and referenced in the practitioners' statement. See MPEP 711.03(c); 1156 *O.G.* 53 (November 16, 1993).

The showing of counsel Karl Hormann has been considered, but the showing lacks items (2)-(3) above. Accordingly, the holding of abandonment has not been overcome and will not be withdrawn.

Telephone inquiries concerning this matter may be directed to Denise Pothier at (571) 272-4787.

Brian Hearn
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

JONES, DAY, REAVIS AND POGUE
35TH FLOOR
77 WEST WACKER
CHICAGO, IL 60601-1692

COPY MAILED

JAN 16 2003

OFFICE OF PETITIONS

In re Application of:
W. Scott Thielman and
Robert M. Pricone
Application No. 10/100,804
Filed: March 19, 2002
Title of Invention: PROCESS AND APPARATUS FOR MAKING FUEL CELL PLATES

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to a Petition Under 37 C.F.R. 1.47(a), filed July 17, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. A two (2) month extension-of-time is requested and is hereby granted.

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, W. Scott Thielman, refuses to sign the declaration after being presented with the above-identified application and declaration.

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 4/24/08

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/100840 Patent No: 6900329 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.

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

Comments: The C of C has been approved.

/S. A. Jiang/ 1623

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

ATT: JOHN C. STRINGHAM
WORKMAN NYDEGGER & SELLEY
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of :
Keith Christensen :
Application No. 10/100,844 : ON PETITION
Filed: March 19, 2002 :
Attorney Docket No. 15501.4 :

This is a decision on the petition under 37 CFR 1.181, filed May 12, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to this office for review.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the Office action mailed November 3, 2003, which set a one (1) month period for response. Accordingly, this application became abandoned on December 4, 2003. A Notice of Abandonment was mailed on April 1, 2005.

Petitioner asserts that a response was timely submitted on December 2, 2003. In support, the instant petition is accompanied by a copy of applicants' postcard receipt that acknowledges receipt of "Amended Response to Restriction Requirement (2 Pages)" on December 2, 2003. The "Amended Response to Restriction Requirement," however, is not found in the application file. It is assumed that the response was misplaced by the Office.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

This application is being forwarded to Technology Center 3700, for review of the response, filed May 12, 2005 (originally filed December 2, 2003).

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

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

COPY MAILED
AUG 22 2006
OFFICE OF PETITIONS

In re Application of :
Arthur E. Harvey, IV. :
Application No. 10/100,859 : DECISION GRANTING PETITION
Filed: March 18, 2002 :
Attorney Docket No. 10016846-1 :

This is a decision on the petition under 37 CFR 1.47(b) filed June 2, 2006. The petition will be treated under 37 CFR 1.182.

The petition is **granted**.

The above-cited application was filed on March 18, 2002, with a declaration under 37 CFR 1.63 executed by the sole inventor. On June 2, 2006, the instant petition was filed wherein it is alleged that the sole inventor is deceased and his representative cannot be located to execute the declaration under 37 CFR 1.131. Petitioner, therefore, requests status for the above-cited application under 37 CFR 1.47(b).

It is noted, that 37 CFR 1.47 is not applicable under the circumstances presented; this provision is only applicable when the inventor(s) refuses or is unavailable to sign the original declaration filed in the application under 37 CFR 1.63. Further to this point, Section 715.04 of the *Manual of Patent Examination Procedure* (MPEP) provides, in pertinent part, that:

> Affidavits or declarations to overcome a rejection of a claim or claims must be made by the inventor or inventor of the subject matter of the rejected claim(s), a party qualified under 37 CFR 1.42, 1.43, or 1.47, of the assignee or other part in interest when it is not possible to produce the affidavit or declaration of the inventor(s). Thus, where all of the named inventors of a pending application are not inventors of every claim of the application, any affidavit under 37 CFR 1.131 could be signed by only the inventor(s) of the subject matter of the rejected claims. Further, where it is shown that a joint inventor is deceased, refuses to sign, or is otherwise unavailable, the signatures of the remaining joint inventors are sufficient.

Based on the aforementioned, status under 37 CFR 1.47 is not necessary in order for the declaration under 37 CFR 1.131 filed without the signature of the sole inventor or his representative to be accepted. The petition is, therefore, treated under 37 CFR 1.182. As petitioner has established that the representative of the deceased sole inventor cannot be located to sign the declaration under 37 CFR 1.131, the declaration under 37 CFR 1.131 filed June 2, 2006, with signature of a representative of the assignee will be accepted.

The fee for the instant petition is $400.00. Deposit account 08-2025 will be charged accordingly.

The application file will be directed to Technology Center 2100, GAU 2116 for further processing.

Any inquiries related to 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

Paper No.

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

COPY MAILED

MAR 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Arthur Harvey	:	DECISION ON
Application No. 10/100,859	:	PETITION
Filed: March 18, 2002	:	
Atty Docket No. 10016846-1	:	

This is in response to the DECLARATION UNDER 37 C.F.R. §1.47(b) WHERE INVENTORS CANNOT BE REACHED AFTER DILIGENT EFFORT filed December 22, 2006. This petition was filed along with a SUPPLEMENTAL DECLARATION OF PRIOR INVENTION IN THE UNITED STATES PURSUANT TO 37 C.F.R. § 1.131. Thus, the petition is properly treated as a petition under § 1.183 for waiver of § 1.131's requirement that all of the inventors sign the declaration of prior inventorship[1].

The petition under 37 CFR 1.183 is **GRANTED**.

The above-identified application was filed on March 18, 2002, with a 37 CFR 1.63 declaration signed by sole inventor Harvey. On June 2, 2006, applicant filed a § 1.131 declaration, signed by the assignee on behalf of deceased inventor Harvey. The petition included a showing that the § 1.42 party, the inventor's widow, was unavailable to join in the application. By decision mailed August 22, 2006, the 37 CFR 1.131 declaration filed June 2, 2006 was accepted and forwarded to the examiner for consideration on the merits.

[1] Petitions under 37 CFR 1.47 are only applicable to an original oath or declaration.

On December 22, 2006, applicant filed a supplemental declaration under 37 CFR 1.131. Therewith, applicant resubmits the previous showing of unavailability of the inventor's widow.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."

Here, there has not been a party qualified under 37 CFR 1.43, or 1.47. In addition, applicant does not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper party to sign the 37 CFR 1.131 declaration is the legal representative of the deceased inventor. A previous decision waive the requirement that the original 1.131 declaration be executed by the § 1.42 party was granted.

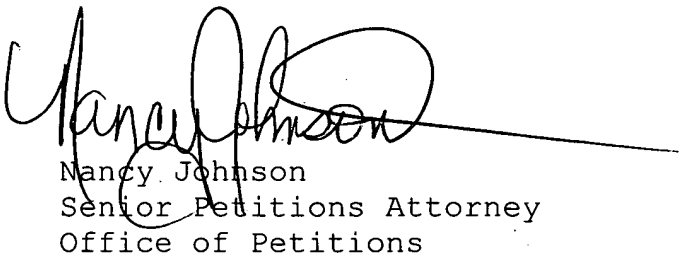
In order for a petition under 37 CFR 1.183 to be granted to waive this requirement that the legal representative sign the § 1.131 declaration, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

Under the circumstances, it is concluded that petitioner has demonstrated that this is an extraordinary situation, warranting waiver of the rules.

The petition is granted to the extent that the 37 CFR 1.131 supplemental declaration may be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied. This is not a decision on the merits of the declaration.

The petition fee of $400 has been charged to Deposit Account No. 08-2025. The application is being forwarded to Technology Center 2116 for consideration on the merits of the reply and the 37 CFR 1.131 declaration, filed December 22, 2006.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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FEB 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Gell, et al.	:	
Application No.: 10/100,863	:	ON PETITION
Filed: March 19, 2002	:	
Attorney Docket No: PPC-832	:	

This is in response to the petition under 37 CFR 1.137(b) filed August 3, 2006.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to file an Appeal Brief in a timely manner after the filing of a Notice of Appeal on July 22, 2004. A response was not received within the allowable period and the application became abandoned on September 23, 2004. A Notice of Abandonment was mailed on September 14, 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 (1) above.

As to item (1) above, Examiner Michele Kidwell has determined that the response filed August 3, 2006, does not place the application in condition for allowance. The petition must be dismissed because of the lack of a proper response to the final Office action mailed March 5, 2004. The renewed petition must accompanied by a proper response to the final Office action, which may include an amendment that places the application in condition for allowance or Request for Continued Examination under 37 CFR 1.114. Questions regarding the determination of the sufficiency of the reply filed August 3, 2006, should be directed to Examiner Kidwell.

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of
Carol Gell et al.
Application No. 10/100,864
Filed: March 19, 2002
Attorney Docket Number: PPC-831

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 2004, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed November 5, 2003. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned February 6, 2004. Accordingly, a Notice of Abandonment was mailed June 1, 2004.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

This application is being forwarded to Technology Center 3732 for appropriate action on the amendment filed September 7, 2004.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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CHAPIN & HUANG L.L.C.
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE
WESTBOROUGH MA 01581

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Doyle et al. :
Application No. 10/100,883 : DECISION ON PETITION
Filed: March 19, 2002 :
Attorney Docket No. EMPIR-039AUS :

This is a decision on the petition under 37 CFR §1.137(b), filed July 10, 2006.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on December 12, 2005. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was submitted on March 13, 2006 (certificate of mailing March 10, 2006). In response to the amendment an Advisory Action was mailed on March 30, 2006 indicating the amendment submitted on March 13, 2006 did not place the application in condition for allowance. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 13, 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 application will be forwarded to Technology Center 2145 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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SILVERSKY GROUP LLC
5422 LONGLEY LANE, SUITE B
RENO NV 89511

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of :
John Doyle et al. :
Application No. 10/100,883 : ON PETITION
Filed: March 19, 2002 :
Attorney Docket No. 300042-00039 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 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 reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 27, 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) was obtained. Accordingly, the application became abandoned on September 8, 2007. The Notice of Abandonment was mailed February 13, 2008..

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 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). The amendment filed herewith petition ***does not*** prima facie place the application in condition for allowance.

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) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

Enclosed: Examiner's Advisory Action PTOL-303

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/100,883	**Applicant(s)** DOYLE ET AL.	
	Examiner Jeffrey R. Swearingen	**Art Unit** 2445	

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

THE REPLY FILED 12 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-5,7-11,13-17 and 22-33*.
   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 3. NOTE: The amendments change the claim scope, requiring further search and consideration. The limitiation "and wherein said communication includes a signaling portion and a real-time portion" was proposed in a proposed after final amendment of 9/26/2007. In the advisory action of 10/16/2007, Applicant was informed the proposed claim amendment would require further search and consideration, and was not entered at that time. The only change between the current proposed amendment and the proposed amendment of 9/26/2007 is the removal of the word conversions, which does not place the application in condition for allowance.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. Applicant's arguments are directed toward the proposed claim amendments, which are not entered due to change in scope of the claims.

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MICHAELSON & ASSOCIATES
P.O. BOX 8489
RED BANK, NJ 07701-8489

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MAY 10 2010

OFFICE OF PETITIONS

In re Patent No. 7,046,857
Issue Date: May 16, 2006
Application No. 10/100,942
Filed: March 18, 2002
Patentee(s): Sean T. McCarthy, et. al.

NOTICE

This is a Notice regarding your communication filed on February 21, 2010, which is being treated as a request under 37 CFR 1.28(c) for acceptance of a fee deficiency submission.

The request is **dismissed**.

It noted that the request to accept the fee deficiency filed on February 21, 2010 is signed by Jodi Pounds. However, it is not apparent whether Jodi Pounds is authorized to make the assertion in the above application.

37 CFR 1.28(c)(2) states, "The written assertion can be signed by:

(i) One of the parties identified in § 1.33(b) (e.g., an attorney or agent registered with the Office), § 3.73(b)[1] of this chapter notwithstanding, who can also file the written assertion;

(ii) At least one of the individuals identified as an inventor (even though a § 1.63 executed oath or declaration has not been submitted), notwithstanding § 1.33(b)(4), who can also file the written assertion pursuant to the exception under § 1.33(b) of this part; or

(iii) An assignee of an undivided part interest, notwithstanding §§ 1.33(b)(3) and 3.73(b) of this chapter, but the partial assignee cannot file the assertion without resort to a party identified under § 1.33(b) of this part.

[1] 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

In view of the above, the request to change the entity status cannot be accepted at this time.

A courtesy copy of this Notice is being mailed to the address given in the request. Thereafter, all future correspondence will be mailed solely to the address of record until otherwise instructed.

Additionally, the record shows that petitioner supplied Credit Card information in the present request. Petitioner is cautioned that "if credit card information is provided on a form or document other than a form provided by the Office for the payment of fees by credit card, the Office will not be liable if the credit card number becomes public knowledge." *See* 37 CFR 1.23(b). Petitioner is reminded that failure to use the Credit Card Payment Form (PTO-2038) when submitting a credit card payment may result in your credit card information becoming part of the record of an Office file that is open to public inspection. Therefore, a Credit Card Payment Form (PTO-2038[2]) should be used when paying a patent or trademark fee by credit card.

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

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By hand: U.S. Patent and Trademark Office
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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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Jodi Pounds
University of California, Berkeley
Office of Technology Licensing
2150 Shattuck Avenue, Suite 510
Berkeley, CA 94704

[2] Form Number PTO-2038 may be downloaded at http://www.uspto.gov/web/forms/2038.pdf.

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PHILADELPHIA, PA 19104-2891

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of :
Mark I. Greene et al :
Application No. 10/100,952 : ON PETITION
Filed: March 19, 2002 :
Attorney Docket No. UPN-4135

This is a decision on the petition, filed May 30, 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 May 2, 2008 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 1643 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK, NY 10112

Mail Date: 04/21/2010

Applicant	: Mark I. Greene	: DECISION ON REQUEST FOR
Patent Number	: 7625558	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/100,952	: 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 **1265** 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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COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK, NY 10112

Mail Date: 05/18/2010

Applicant : Mark I. Greene
Patent Number : 7625558
Issue Date : 12/01/2009
Application No: 10/100,952
Filed : 03/19/2002

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1353** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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Paper No. 6

PATENT AND TRADEMARK COUNSEL
THE GILLETTE COMPANY
PRUDENTIAL TOWER BLDG.
BOSTON, MA 02199

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AUG 20 2003

OFFICE OF PETITIONS

In re Application of :
Dodd et al. :
Application No. 10/101,004 :
Filed: March 19, 2002 :
Attorney Docket No. T-689-A :

This is a decision in response to the Petition to Correct Filing Date (37 CFR 1.182), filed via facsimile August 7, 2003, which is being treated under 37 CFR 1.10(c), to accorded a filing date of March 19, 2002, instead of the presently accorded filing date of March 18, 2002.

Petitioner alleges the application was deposited in "Express Mail" service with the U.S. Postal Service, on March 19, 2003. In support, Petitioner provides a copy of the Express Mail label, receipt number EL382854275US, with a United States Postal Service (USPS) stamp of March 19, 2003. The same Express Mail label number was placed on the original application papers located in the official file.

The Office considers the date the correspondence is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail mailing label. *See* MPEP §513. The date indicated on the "date-in" on the Express Mail mailing label verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on March 19, 2003.

In view of the foregoing, this Petition in **granted**.

This application is being forwarded to the Office of Initial Patent Examination for **correction of the filing date to March 19, 2003.**

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER LTD
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

COPY MAILED

DEC 0 9 2002

OFFICE OF PETITIONS

In re Application of
Stewart, Cole, Michalek & Gleissner
Application No.: 10/101,020
Filed: March 19, 2002
Attorney Docket No.: 803 P 050
For: ENERGY SOURCE USING
HYDROGENATED VEGETABLE OIL
DILUTED INTO DIESEL FUEL

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed November 4, 2002 (certificate of mailing date October 28, 2002).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Billy R. Cole, cannot be located. Specifically, the petition and the declaration/statement of facts of Cristine Noll establish that despite extensive searches of numerous sources, Billy R. Cole cannot be found. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

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
www.uspto.gov

BILLY R. COLE
332 ELMWOOD
FORT WORTH, TX 76020

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DEC 0 9 2002

OFFICE OF PETITIONS

In re Application of
Stewart, Cole, Michalek & Gleissner
Application No.: 10/101,020
Filed: March 19, 2002
Attorney Docket No.: 803 P 050
For: ENERGY SOURCE USING HYDROGENATED VEGETABLE OIL DILUTED INTO DIESEL FUEL

LETTER

Dear Mr. Cole:

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

ATTORNEY OF RECORD: COOK, ALEX, MCFARRON, MANZO, CUMMINGS & MEHLER LTD
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER LTD
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

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AUG 2 9 2002

OFFICE OF PETITIONS

In re Application of
Stewart, Cole, Michalek & Gleissner
Application No.: 10/101,020
Filed: March 19, 2002
Attorney Docket No.: 803 P 050
For: ENERGY SOURCE USING
HYDROGENATED VEGETABLE OIL
DILUTED INTO DIESEL FUEL

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed July 2, 2002 (June 24, 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 19, 2002 without an executed oath or declaration. Accordingly, on April 24, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on July 2, 2002 (June 24, 2002). a declaration executed by 3 of 4 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of Donald Holland accompanied the petition. Mr. Holland explains that a number of calls were made to Mr. Holland's cell phone number, but no response was received.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks items (1) and (2) above.

As to item (1), Applicants have failed to establish that the inventor cannot be reached. Petitioners state that a number of calls were made to Mr. Holland's cell phone, a number of messages were left, but that no one answered the messages. In addition, petitioners state that Mr. Holland's last known residence was destroyed by fire and most likely Mr. Holland has relocated to Kansas.

Where inability to find or reach a non-signing inventor is alleged, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, any inquiries of local telephone directory, or any extant national or regional registry, telegrams, and searches of Internet databases, such as LEXIS, etc., that support a finding that the non-signing inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

A showing of diligence in trying to reach the non-signing inventor is critical to obtaining Rule 47 status when it is alleged that the non-signing inventor cannot be located or reached.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration states Mr. Holland's address is that of his former employer. Typically, an inventor's mailing address is where he/she receives mail. In situations where an inventor does not execute the declaration, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary MPEP 605.03.

The declaration is not acceptable for another reason. Applicants filed an addendum to the declaration that was signed by Wilbur J. Stewart, Jr., a joint inventor. Mr. Stewart states that he is signing the declaration on behalf of himself and on behalf on the non-signing inventor. Applicants are reminded that all applicants, not just one of the joint inventors, must sign a statement on behalf of the non-signer (in addition to signing in their own signature blocks). The easiest way to deal with this issue is to leave the non-signer's signature block blank and have the signers sign in their respective signature blocks. It is presumed that the signing joint inventors are signing on behalf of the non-signer if the issue is not specifically addressed. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. Holland is REQUIRED. See MPEP 409.03(a).

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

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

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

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.
10/101,030	03/19/2002	David R. Liu	0342941-0071 (Liu 1865-01	7629

24280 7590 01/15/2004

Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109

EXAMINER	
BAKER, MAURIE GARCIA	

ART UNIT	PAPER NUMBER
1639	

DATE MAILED: 01/15/2004

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

S.M.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DEC 29 2003

CHOATE, HALL & STEWART
EXCHANGE PLACE
53 STATE STREET
BOSTON MA 02109

In re Application of	:
David R. Liu et al	:
Serial No.: 10/101,030	: PETITION TO MAKE SPECIAL
Filed: March 19, 2002	:
Attorney Docket No.: LS1-002	:

This is in response to applicants' petition filed December 5, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

The application will be forwarded to the examiner for action not inconsistent 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

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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RESOLUTION SPECIALTY MATERIALS LLC
1600 SMITH STREET, 24TH FLOOR
P. O. BOX 4500
HOUSTON, TX 77210-4500

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MAY 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Lesley et al.	:	
Application No. 10/101,038	:	ON PETITION
Filed: March 19, 2002	:	
Attorney Docket No. 71380.US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 2, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed July 30, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 31, 2004. A Notice of Abandonment was mailed March 3, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 1700 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
P.O. Box 1450
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FROM DIRECTOR'S OFFICE

FEB 19 2008

TECHNOLOGY CENTER 3600

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

In re application of
Hiroshi Shimosako et al.
Application No. 10/101,058
Filed: March 20, 2002

DECISION ON PETITION TO REMOVE THE REFERENCE TO GRIMM UNDER 37 CFR 1.181

For: METHOD FOR PROVIDING INFORMATION TO MANAGE QUEUE AND METHOD FOR RESERVING SERVICE

This is in response to the petition filed on March 30, 2007 under 37 CFR 1.181 to request that the reference to Grimm 2002/0116235 be removed and be accorded a priority date of February 7, 2002.

The petition is DENIED

Applicant has requested that the Director remove the reference to Grimm and accord a priority date of February 7, 2002.

Applicant has provided a summary which is substantially correct. U.S. Patent Application Publication No. 2002/0116235 to Grimm et al was applied in a rejection of claim 5 in the Non-Final rejection mailed February 27, 2007. The reference to Grimm et al claims priority to Provisional Application No. 60/267,126. Applicant contends that the provisional application was received by the Office on January 7, 2001 as shown by the Image File Wrapper information and the date stamp on the left margin of each page of the provisional application. Applicant states that Grimm was filed on February 7, 2001 and thus cannot claim priority to the provisional application since Grimm was not filed at the USPTO within twelve months of the date on which the provisional application was filed as required by 35 U.S.C. 119(e)(1). Applicant states that the provisional application had thus gone abandoned before the Grimm utility application was filed, and Grimm was consequently never entitled to be granted a priority date of February 7, 2001.

MPEP 1201 states that the United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute 35 U.S.C. 134. The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board

Since applicant's arguments are directed to the application of a prior art reference and the entitlement of the priority date to a provisional application under 35 U.S.C. 119(e)(1) to deny patentability, it has been determined that this relates to the merits and, thus, is an appealable matter provided by statute 35 U.S.C. 134 rather than a petitionable matter under 37 C.F.R. 181.

The application is currently under a non-final rejection mailed August 21, 2007, and the 3 month Shortened Statutory Period continues to run from that date.

The application has been forwarded to the examiner for processing as appropriate.

Any questions regarding this decision should be referred to SPE John W. Hayes at (571) 272-6708.

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

Snm/JWH: 2/7/2008
SM

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)
6571737	2003-06-03	10101066	2002-03-20	3091-056

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Bruce H. Troxell/	Date (YYYY-MM-DD)	2008-09-23
Name	Bruce H. Troxell	Registration Number	26592

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
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6571737
Issue Date: June 3,2003
Application No. 10101066
Filed: March 20,2002
Attorney Docket No. BHT-3091-56

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

This is a decision on the electronic petition, filed September 23,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 23,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Brian R. Coleman
Perkins Coie LLP
P.O. Box 2168
Menlo Park, CA 95026-2168

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MAY 19 2006

OFFICE OF PETITIONS

In re Application of:
HO, Hsieh, Yue, et al.
Application No.: 10/101,076
Filed: March 18, 2002
Atty's Docket No.: 59629-8004.US01

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed January 17, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response in a timely manner to the Notice Of Allowance mailed October 19, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on January 19, 2005.

On January 17, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees.[1] Accordingly, the response to the Notice Of Allowance mailed October 19, 2004 is accepted as being unintentionally delayed.

Applicants' January 17, 2006 submission also included corrected drawings as required by the "Notice Regarding Drawings" mailed January 19, 2005.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3296.

Richard M. Ross
Attorney Advisor

[1] It is noted that the petition was also accompanied by a Terminal Disclaimer. Because the application was filed later than June 08, 1995, such Terminal Disclaimer is not required for granting of the petition for revival (see 37 CFR 1.137(d)).

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

Tarek N. Fahmi
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

MAILED

APR 11 2005

Technology Center 2100

In re Application of:
Simon Paul Ashley Rix
Application No. 10/101,122
Filed: March 18, 2002
For: METHOD FOR PROVIDING A SECURE COMMUNICATION BETWEEN TWO DEVICES AND APPLICATION OF THIS METHOD

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed November 12, 2004.

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

The request is **GRANTED**.

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

Michelle R. Eason for

Vincent N. Trans
Special Program Examiner
Technology Center 2100

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

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1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

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JUL 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Lampert et al.	:	
Application No. 10/101,132	:	ON PETITION
Filed: March 19, 2002	:	
Attorney Docket No. CM03630J	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 10, 2004, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed April 19, 2004, and no extensions of time under the provisions of 37 CFR 1.136(b) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on June 20, 2003. See MPEP 1215.04.

However, a petition under 1.137(b) is not yet required. Petitioner has until November 19, 2004 to submit an extension of time before a petition to revive is necessary. The reply sent with the instant petition on June 10, 2003, however, was incomplete. The appeal brief must be submitted in ***triplicate.*** A review of the documents submitted shows that only one copy was presented. Accordingly, petitioner may wish to submit the additional appeal briefs, along with an extension of time, to Technology Center 3600.

Accordingly, the petition fee of $1330.00 submitted on June 10, 2004, is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being forwarded to Technology Center 3600 to await a reply. Failure to timely reply will result in the abandonment of the application.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Best Available Copy

JUL 0 2 2002 PATENT & TRADEMARK OFFICE

Attorney Docket: SP00-391B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Cameron W. Tanner et al.
Application No.:	10/101,135
Filing Date:	March 18, 2002
Title:	POROUS INORGANIC SUBSTRATE FOR HIGH-DENSITY ARRAYS

AMENDMENT
TO ADD INVENTOR

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Assistant Commissioner for Patents
Washington, DC 20231

AMENDMENT UNDER C.F.R.1.48(a) TO ADD INVENTOR

IN THE INVENTORSHIP:

Please amend the inventorship to include the name of Raja R. Wusirika – who resides at 101 West Hill Terrace, Painted Post, New York 14870 to the above-captioned application

REMARKS

This amendment is accompanied by a petition, including a statement that the inventorship occurred without deceptive intention on the part of the omitted inventor. This amendment is also accompanied by the fee set forth in 37 C.F.R. 1.17(h).

The Commissioner is hereby authorized by Corning Incorporated to charge any additional fees associated with this communication or credit any overpayment to **Deposit Account No. 03-3325**.

Respectfully submitted,

DATE: June 24, 2002

Agent for Assignee
Vincent T. Kung
Reg. No. 45,797
Corning Incorporated
SP-TI-3-1
Corning, NY 14831
(607) 974-0608

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 June 24, 2002
(Date)

Signature: Vincent T. Kung

JUL 0 2 2002
PATENT & TRADEMARK OFFICE 060

Attorney Docket: SP00-391B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Cameron W. Tanner et al.	PETITION
Application No.:	10/101,135	
Filing Date:	March 18, 2002	
Title:	POROUS INORGANIC SUBSTRATE FOR HIGH-DENSITY ARRAYS	

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Washington, DC 20231

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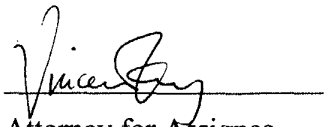
PETITION TO ADD THE NAME OF AN INVENTOR UNDER 37 C.F.R. 1.48(d)

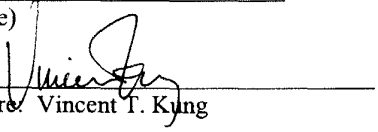
Applicants petition to add the name of inventor Raja R. Wusirika, who resides at 101 West Hill Terrace, Painted Post, New York 14870, to the above-captioned application. This error in inventorship occurred without deceptive intention on the part of the omitted inventor. A statement by the omitted inventor, as required by 37 C.F.R. 1.48(d), accompanies this petition.

Respectfully submitted,



DATE: June 24, 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 June 24, 2002
(Date)



Signature: Vincent T. Kung

Attorney for Assignee
Vincent T. Kung
Reg. No. 45,797
Corning Incorporated
SP-TI-3-1
Corning, NY 14831
(607) 974-0608

JUL 02 2002
PATENT & TRADEMARK OFFICE

Attorney Docket: SP00-391B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Patrick D. Tepesch et al.	AMENDMENT
Application No.:	10/101,135	
Filing Date:	March 18, 2002	
Title:	POROUS INORGANIC SUBSTRATE FOR HIGH-DENSITY ARRAYS	

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Assistant Commissioner for Patents
Washington, DC 20231

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DECLARATION UNDER 37 CFR 1.63

I, Cameron W. Tanner, residing at 179 Watauga Avenue, Corning, New York 14830, make this declaration in support of the addition of Raja R. Wusirika as an inventor in the above named patent application.

I hereby agree to the aforementioned change of the inventorship and furthermore have no disagreement in regard to adding Raja R. Wusirika as an inventor.

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 or any patent issued thereon.

Date: 6/21/02

Patrick D. Tepesch

1634

(U.S.)

JUL 0 2 2002
PATENT & TRADEMARK OFFICE

Attorney Docket No.: **SP00-391B**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Tanner, et al
Serial No.:	10/101,135
Filed:	March 18, 2002
For:	POROUS INORGANIC SUBSTRATE FOR HIGH-DENSITY ARRAYS

COMBINED CERTIFICATE UNDER 37 C.F.R. § 3.73(b) and POWER OF ATTORNEY

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Assistant Commissioner for Patents
Washington, DC 20231

CERTIFICATE UNDER 37 C.F.R. § 3.73(b)

CORNING INCORPORATED, a New York corporation, certifies that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of an assignment from the inventor(s) of the patent application identified above. A true copy of the unrecorded Assignment is attached hereto.

The undersigned has reviewed the above referenced assignment of the patent application identified above and, to the best of the undersigned's knowledge and belief, title is in the assignee identified above.

The undersigned is empowered to sign this certificate on behalf of the assignee.

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 are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

(U.S.) Attorney Docket No.: **SP00-391B**

POWER OF ATTORNEY BY ASSIGNEE

CORNING INCORPORATED, the assignee of the full and exclusive right, title and interest in and to the accompanying application for United States Letters Patent entitled **POROUS INORGANIC SUBSTRATE FOR HIGH-DENSITY ARRAYS** and executed by Cameron W. Tanner, Patrick D. Tepesch and Raja R. Wusirika on 05-20-2002, 05-20-2002 and 06-10-2002, respectively, appoints the practitioners associated with the Customer Number provided below (i.e., the practitioners associated with the Intellectual Property Department, Corning Incorporated) to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected therewith. Please direct all correspondence to Vincent T. Kung at the address associated with that Customer Number.

Customer Number: 22928

CORNING INCORPORATED

Date: June 24, 2002

By

Mark W. Lauroesch
Assistant Secretary

(U.S. Regular Application)

Attorney Docket No.: **SP00-391B**

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ASSIGNMENT

FOR VALUE RECEIVED, I, as a below named inventor, hereby sell, assign and transfer unto Corning Incorporated, a corporation organized and existing under the laws of the State of New York, having its principal place of business at Corning, New York, (hereinafter CORNING), as assignee, and unto its successors, assigns and legal representatives, the entire right, title and interest, for all countries, in and to certain inventions relating to a **POROUS INORGANIC SUBSTRATE FOR HIGH-DENSITY ARRAYS**, such inventions being generally described in an application for Letters Patent of the United States executed on

DATE 6-10-2002

and in any future patent applications claiming the benefit of the filing date of that application, and all the rights and privileges under any and all Letters Patents that may be granted therefore.

I request that any and all patents for said inventions be issued to CORNING, its successors, assigns and legal representatives, or to such nominees as CORNING may designate.

I agree that, when requested, I will, without charge to CORNING and at CORNING's expense, sign all papers, take all rightful oaths, and do all acts which may be necessary, desirable or convenient for securing and maintaining patents for said inventions in any and all countries and for vesting title thereto in CORNING, its successors, assigns and legal representatives or nominees.

I authorize and empower CORNING, its successors, assigns and legal representatives or nominees, to invoke and claim for any application for patent or other form of protection for said inventions filed by it or them, the benefit of the right of priority provided by the International Convention for the Protection of Industrial Property, as amended, or by any convention which may henceforth be substituted for said Convention or entered as a supplement to, and to invoke and claim such right of priority without further written or oral authorization.

I hereby consent that a copy of this assignment shall be deemed a full legal and formal equivalent of any assignment, consent to file or like document which may be required in any country for any purpose and more particularly in proof of the right of CORNING, or its successors, assigns and legal representatives or nominees to claim the aforesaid benefit of the right of priority provided by the International Convention for the Protection of Industrial Property, as amended, or by any convention which may henceforth be substituted for it or entered as a supplement to it.

I covenant with CORNING, its successors, assigns and legal representatives or nominees, that the rights and property herein conveyed are free and clear of any encumbrance, and that I have full right to convey the same as herein expressed.

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Signed at Corning, NY, this

6/10/02
Date

Raja R. Wusirika

State of New York)
: ss.
County of Steuben)

On the 10TH day of JUNE 2002, before me personally came **Raja R. Wusirika** known to be the person described in and who executed the foregoing instrument, and acknowledged that they executed the same.

Susan M. Hynes
Notary Public

Susan M. Hynes
Notary Public State of New York
No. 01HY6023186
Qualified in Steuben County
Commission Expires April 19, 2003

(U.S. Regular Application)

Attorney Docket No.: SP00-391B

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ASSIGNMENT

FOR VALUE RECEIVED, I, as a below named inventor, hereby sell, assign and transfer unto Corning Incorporated, a corporation organized and existing under the laws of the State of New York, having its principal place of business at Corning, New York, (hereinafter CORNING), as assignee, and unto its successors, assigns and legal representatives, the entire right, title and interest, for all countries, in and to certain inventions relating to a **POROUS INORGANIC SUBSTRATE FOR HIGH-DENSITY ARRAYS**, such inventions being generally described in an application for Letters Patent of the United States executed on

DATE 5-20-2002

DATE 5-20-2002

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and in any future patent applications claiming the benefit of the filing date of that application, and all the rights and privileges under any and all Letters Patents that may be granted therefore.

I request that any and all patents for said inventions be issued to CORNING, its successors, assigns and legal representatives, or to such nominees as CORNING may designate.

I agree that, when requested, I will, without charge to CORNING and at CORNING's expense, sign all papers, take all rightful oaths, and do all acts which may be necessary, desirable or convenient for securing and maintaining patents for said inventions in any and all countries and for vesting title thereto in CORNING, its successors, assigns and legal representatives or nominees.

I authorize and empower CORNING, its successors, assigns and legal representatives or nominees, to invoke and claim for any application for patent or other form of protection for said inventions filed by it or them, the benefit of the right of priority provided by the International Convention for the Protection of Industrial Property, as amended, or by any convention which may henceforth be substituted for said Convention or entered as a supplement to, and to invoke and claim such right of priority without further written or oral authorization.

I hereby consent that a copy of this assignment shall be deemed a full legal and formal equivalent of any assignment, consent to file or like document which may be required in any country for any purpose and more particularly in proof of the right of CORNING, or its successors, assigns and legal representatives or nominees to claim the aforesaid benefit of the right of priority provided by the International Convention for the Protection of Industrial Property, as amended, or by any convention which may henceforth be substituted for it or entered as a supplement to it.

I covenant with CORNING, its successors, assigns and legal representatives or nominees, that the rights and property herein conveyed are free and clear of any encumbrance, and that I have full right to convey the same as herein expressed.

Signed at Corning, NY, this

5-20-2002
Date

Cameron W. Tanner

5/20/02
Date

Patrick D. Tepesch

State of New York)
: ss.
County of Steuben)

On the 20TH day of MAY 2002, before me personally came **Cameron W. Tanner** known to be the person described in and who executed the foregoing instrument, and acknowledged that they executed the same.

Susan M. Hynes
Notary Public

Susan M. Hynes
Notary Public State of New York
No. 01HY6023186
Qualified in Steuben County
Commission Expires April 19, 2003

State of New York)
: ss.
County of Steuben)

On the 20TH day of MAY 2002, before me personally came **Patrick D. Tepesch** known to be the person described in and who executed the foregoing instrument, and acknowledged that they executed the same.

Susan M. Hynes
Notary Public

Susan M. Hynes
Notary Public State of New York
No. 01HY6023186
Qualified in Steuben County
Commission Expires April 19, 2003

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 23, 2008

TO SPE OF : ART UNIT 2145

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/101145 Patent No.: 7334047 B1

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

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

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

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: ok

JASON CARDONE
SUPERVISORY PATENT EXAMINER

SPE 2145 **Art Unit**

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NUVELO, INC.
675 ALMANOR AVENUE
SUNNYVALE, CA 94085

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APR 27 2005

OFFICE OF PETITIONS

In re Application of :
John Ford et al :
Application No. 10/101,148 : ON PETITION
Filed: March 19, 2002 :
Attorney Docket No. 28110/38317

This is a decision on the petition, filed April 26, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1646 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
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Paper No. 3

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AUG 2 9 2003

Technology Center 2100

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AUG 19 2004
GROUP 3600

Lawrence Harbin
McIntyre Harbin & King LLP
500 9th Street, S.E.
Washington, D.C. 20003

In re Application of: David Huelsman et al.)
Application No. 10/101,151)
Filed: March 20, 2002)
For: METHOD OF PROVIDING)
DECISION AUTOMATION)

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

This is a decision on the petition, filed June 20, 2003 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 submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

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

DOCKETED

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COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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Paper No. 3

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AUG 2 9 2003

Technology Center 2100

Lawrence Harbin
McIntyre Harbin & King LLP
500 9th Street, S.E.
Washington, D.C. 20003

In re Application of: David Huelsman et al.	)	**DECISION ON PETITION**
Application No. 10/101,151	)	**FOR ACCELERATED**
Filed: March 20, 2002	)	**EXAMINATION UNDER**
For: METHOD OF PROVIDING	)	**M.P.E.P. §708.02(VIII)**
DECISION AUTOMATION	)	

This is a decision on the petition, filed June 20, 2003 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 submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

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

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

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OFFICE OF PETITIONS

In re Application of :
Jeffrey David Cowl, et al. :
Application No. 10/101,183 : ON PETITION
Filed: March 20, 2002 :
Attorney Docket No. 4502-1005 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 30, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being referred to Technology Center 3700 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

MAIL

NOV 21 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON DC 20037-1526

In re Application of:
HIROSHI MAEGAWA
Application No. 10/101,201
Filed: March 20, 2002
For: WOBBLE DETECTION CIRCUIT CORRESPONDING TO A PLURALITY OF MEDIA HAVING DIFFERENT PRE-FORMATS AND OPTICAL DISK APPARATUS HAVING REDUCED SIZE

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition Received September 9, 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 appropriate action in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

Thomas E. Anderson
Hunton & Williams
1900 K Street, N.W.
Washington, DC 20006-1109

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JUL 17 2002

OFFICE OF PETITIONS

In re Application of :
Wyrzykowska et al. :
Application No. 10/101,211 : DECISION ON PETITION
Filed: March 20, 2002 :
Attorney Docket No. 57983.000076 :

This is a decision on the petition filed June 21, 2002, requesting, in effect, that Figure 9 filed on March 20, 2002, be entered as part of the original disclosure.

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.

The application was filed on March 20, 2002. On April 23, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of March 20, 2002, and advising applicants that Figure 9 appeared to be omitted.

In response, the present petition was filed. Petitioner alleges Figure 9 was filed with the original application.

All the evidence present in the file has been carefully considered, but is not persuasive that Figure 9 were submitted with the original application.

While petitioner apparently believes that Figure 9 was filed on March 20, 2002, the file[1] shows that page 4 of the specification was not received, since no such paper is present in the file. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

The last portion of MPEP 513 states,

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt ....

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[1] The file contains the actual papers received and the file is an official government record prepared and maintained by disinterested USPTO employees as a part of their customary and usual duties.

The application was deposited with a postcard receipt.[2] The postcard receipt states that 15 pages of drawings are present. Upon receipt of the application papers, the Office reviewed the file and verified that at least 15 pages of specification were present. The 15 pages were merely counted and were not substantively reviewed. A manual count of the pages of the drawings in the file indicates the presence of 15 pages of drawings. Each page contains one figure and the pages consist of Figures 1, 2, 3, 4A, 4B, 5A, 5B, 6A, 6B, 7A, 7B, 8, 10, 11, and 12.

An amendment to the specification deleting references to the missing page should be filed prior to the first USPTO action in order to avoid further delays in the examination of the application. *In the alternative*, if petitioner desires for the examiner to consider page(s) which were not submitted as part of the original disclosure, then petitioner may seek to submit some or all of those pages as an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a). The amendment is not new matter if the substance was a part of the disclosure of the prior application and the matter was incorporated by reference.

It is noted that the first paragraph of the specification contains an incorporation by reference statement. 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)

Since applicants have not filed a petition under 37 CFR 1.182 requesting June 21, 2002, the date the missing pages were filed, as the filing date, Figure 9 will not be entered.

The file will be returned to the Office of Initial Patent Examination for further processing with a filing date of March 20, 2002, using only the papers filed on that date.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[2] 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET NW, SUITE 1200
WASHINGTON DC 20006-1109

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AUG 2 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Aneta D. Wyrzykowska et al	:	
Application No. 10/101,211	:	DECISION GRANTING PETITION
Filed: March 20, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 57983.000076	:	

This is a decision on the petition, filed August 17, 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 11, 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 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
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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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET NW, SUITE 1200
WASHINGTON, DC 20006-1109

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of :
Aneta D. Wyrzykowska et al :
Application No. 10/101,211 : DECISION GRANTING PETITION
Filed: March 20, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 57983.000076 :

This is a decision on the petition, filed January 12, 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 13, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2841 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

COMMISSIONER FOR PATENTS
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In re Application of
Howard A. ROCKMAN et al
Serial No. 10/101,235
Filed: March 19, 2002
For: PHOSPHOINOSITIDINE 3-KINASE MEDIATED INHIBITION OF GPCRS

DECISION ON PETITION

This is a decision on the petition to request acceptance of color drawings under 37 C.F.R. §1.84(a)(2) filed October 6, 2003.

The petition has been reviewed and is found to be in compliance with the requirements as set forth in 37 C.F.R. § 1.84(a)(2). AS explained by the applicant(s) the color drawing is necessary to facilitate understanding of the claimed invention. A black and white copy of the color drawing is enclosed in accordance with § 37 C.F.R. 1.84(a)(2)(iii). The brief description of the drawings section of the specification states

The patent or application file contains at least one drawing executed in color. The U.S. Patent and Trademark Office will provide copies of this patent or patent publication with color drawing(s) upon request and payment of the necessary fee.

The required fee for the petition has been paid.

PETITION GRANTED.

Ponnathapu N. Achutamurthy
Supervisory Patent Examiner
Art Unit 1652.

Sherry M. Carty
BURS DOANE SWECKER & MATHIS L. L. P.
Post Office Box 1404
Alexandria, Virginia 22313-1404

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500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

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OFFICE OF DIRECTOR
GROUP

In re Application of: Esih
Application No. 10/101241
Filed: March 19, 2002
Attorney Docket No. 13246US01

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

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

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed November 4, 2003, are hereby vacated.

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

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Richard Elms at (703) 308-2816.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Janice Falcone

Janice Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical

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OFFICE OF PETITIONS

In re Application of :
James Stewart et al :
Application No. 10/101,248 : DECISION ON PETITION
Filed: March 18, 2002 :
Attorney Docket No. 15436.253.40.1 :

This is a decision on the petition under 37 CFR 1.182, filed, June 8, 2004, to change the name of inventor "Stephen Gerald Hosking" to – Lucy Grace Hosking --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

This application is scheduled to issue on September 11, 2007. Therefore, as the printing of the patent has progressed to the point where the inventor's change of name will not appear on the printed patent, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.322(a). A copy of this decision should accompany petitioner's request.

Any questions concerning this matter may be directed to the undersigned at (571) 272-2318.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/101,248	03/18/2002	2828	1812	15436.253.40.1	37	7

CONFIRMATION NO. 6810

22913
WORKMAN NYDEGGER
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

REPLACEMENT FILING RECEIPT

OC000000025673151

Date Mailed: 09/05/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

James Stewart, San Jose, CA;
Anthony Ho, Richmond, CA;
Andreas Weber, Los Altos, CA;
Lucy Grace Hosking, Santa Cruz, CA;

Power of Attorney: The patent practitioners associated with Customer Number **022913**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/357,073 02/12/2002

Foreign Applications

If Required, Foreign Filing License Granted: 04/17/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/101,248

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

CONTROL CIRCUIT FOR OPTOELECTRONIC MODULE WITH INTEGRATED TEMPERATURE CONTROL

Preliminary Class

372

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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MARK CLODFELTER
555 SPARKMAN DRIVE
SUITE 1602D
HUNTSVILLE, AL 35816

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OCT 28 2004

OFFICE OF PETITIONS

In re Patent No. 6,736,376 :
Issue Date: May 18, 2004 :
Application No. 10/101,250 :
Filed: March 19, 2002 :
Attorney Docket No. GILLESPAT1 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 25, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on March 19, 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 months publication country.

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

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

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

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

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

Workman Nydegger
(F/K/A Workman Nydegger & Seeley)
60 East South Temple
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Salt Lake City, UT 84111

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JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of :
James Stewart, et. al. :
Application No. 10/101,258 : ON PETITION
Filed: March 18, 2002 :
Attorney Docket No. 15436.253.44.1 :

This is a decision on the petition under 37 CFR 1.182, filed June 8, 2004, to change the name of the inventor.

The petition is **GRANTED**.

The name of the inventor will be changed as follows:

1. Lucy G. Hosking

The above-identified application is being retained in the Office of Petitions for treatment of the Petition under 37 CFR 1.78(a)(6), filed March 23, 2004.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.15

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SALT LAKE CITY UT 84111

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JUL 0 8 2004

OFFICE OF PETITIONS

In re Application of
James Stewart et al
Application No. 10/101,258
Filed: March 18, 2002
Attorney Docket No. 15436.253.44.1

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 March 23, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/357,075, filed February 12, 2002.

The petition is **Granted.**

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

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

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

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

The instant pending nonprovisional application was filed on March 18, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/357,075, which was filed on February 12, 2002, for which priority is claimed. A reference to the prior-filed provisional application has been included in an application data sheet submitted June 8, 2004.

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. 60/357,075 is granted.

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

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

Further, a reference to add the above-noted, prior-filed provisional application on page one following the first sentence of the specification has been included in an amendment filed on March 23, 2004. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The attorney docket number submitted in the first lines of the specification upon filing of the above-identified application reference Docket No. 9775-0073-888 rather than 9775-0073-999. Therefore, the incorporation herein by reference statement included in the amendment filed with the instant petition is not proper since at the time of filing the instant application the correct provisional application number was not included. However, the Office will accept the priority claim as shown in the application data sheet filed June 8, 2004.

Accordingly, petitioner is advised to submit a substitute amendment deleting the incorporation by reference statement to provisional Application No. 60/357,075, filed February 12, 2002.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8859.

The application is being forwarded to Technology Center AU 2633 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/357,075, filed February 12, 2002.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Sept. 5, 2009

TO SPE OF : ART UNIT 2613

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/101258 Patent No.: 7155133

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: _____

KENNETH VANDERPUYE
SUPERVISORY PATENT 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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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

COPY MAILED

MAR 15 2005

OFFICE OF PETITIONS

In re Application of :
Wynn, James Archie :
Application No. 10/101,334 : ON PETITION
Filed: March 20, 2002 :
Attorney Docket No. 2002P05040US02 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 7, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed August 5, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 6, 2004. A Notice of Abandonment was mailed on February 2, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being directed to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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AUG 19 2005

OFFICE OF PETITIONS

In re Application of :
Kenji Ando et al :
Application No. 10/101,412 : DECISION GRANTING PETITION
Filed: March 20, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03500.011999.1 :

This is a decision on the petition, filed August 12, 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 25, 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 1775 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

FITZPATRICK CELLA HARPER &
SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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AUG 24 2006
OFFICE OF PETITIONS

In re Patent No. 7,041,391	:	DECISION ON REQUEST
Ando et al.	:	FOR RECONSIDERATION OF
Issue Date: May 9, 2006	:	PATENT TERM ADJUSTMENT
Application No. 10/101,412	:	and
Filed: March 20, 2002	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 03500.011999.1	:	CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed June 30, 2006. Patentees request that the patent term adjustment indicated in the patent be corrected from four hundred three (403) days to four hundred thirty (430) 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 **four hundred thirty (430)** days.

On May 9, 2006, the application matured into U.S. Patent No. 7,041,391, with a revised patent term adjustment of 403 days. On June 30, 2006, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 430. Patentees assert that the entry reflecting that the issue fee was verified on March 2, 2006 should not have been used in calculating applicant delay. Rather, the date of receipt of the issue fee payment February 3, 2006 should have been issued. Thus, the associated period of reduction is 3 days, not 30 days.

Having reviewed the record, it is concluded that patentees' argument is persuasive. The issue fee payment is confirmed to have been made on February 3, 2006, three months and 3 days after the mailing of the notice of allowance on October 31, 2005.

In view thereof, the patent should have issued with a revised patent term adjustment of four hundred thirty (430) days.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **FOUR HUNDRED THIRTY (430)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,041,391 B2

DATED : May 9, 2006

INVENTOR(S) : Ando 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 (403) days

Delete the phrase "by 403" and insert – by 430 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

McAndrews, Held & Malloy, Ltd.
500 W. Madison, Suite 3400
Chicago, IL 60661

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MAR 0 7 2003

OFFICE OF PETITIONS

In re Application of
Mahany et al.
Application No. 10/101,436
Filed: March 19, 2002
Attorney Docket No. 14407US01

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 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 Notice to File Missing Parts of Application (Notice) mailed April 24, 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 25, 2002.

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 given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to correspond regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

The amount of the filing fee is determined at the time the fee is paid in full. At the time the petition was filed, the filing fee was $750 rather than $740. Therefore, $10 has been charged to petitioner's deposit account.

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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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MCANDREWS, HELD & MALLOY, LTD.
500 W. MADISON, SUITE 3400
CHICAGO, IL 60661

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MAY 13 2005

OFFICE OF PETITIONS

In re Application of :
Mahany et al. :
Application No. 10/101,436 : DECISION ON PETITION
Filed: March 19, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 14407US01 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 5, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c) for the benefit of the prior-filed nonprovisional and PCT applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional

parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The amendment filed November 5, 2004 fails to state the following relationships: PCT Application No. PCT/US93/12628, filed December 23, 1993, to Application Nos. 08/027,140 and 07/997,693, filed March 5, 1993 and December 23, 1992, respectively; and PCT Application No. PCT/US94/05037, filed May 6, 1994, to Application No. 08/198,404, filed February 22, 1994.

Further, petitioner is advised that, where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d). Petition should review the claim submitted to ensure that a reference is made to the first application and to every intermediate application.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment[1] stating the relationship of the prior-filed applications to the instant application 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
Customer Service Window 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 Paralegal Liana Chase at (571) 272-3206.

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

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHRISTOPHER C. WINSLADE
MCANDREWS, HELD & MALLOY, LTD.
500 W. MADISON, SUITE 3400
CHICAGO IL 60661

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OCT 0 6 2005

OFFICE OF PETITIONS

In re Application of	:
Mahany et al.	:
Application No. 10/101,436	: DECISION GRANTING PETITION
Filed: March 19, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 14407US01	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 18, 2005, 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 **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 provisional 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 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 and 365(c) to the prior-filed 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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 2665 for appropriate action on the amendment filed July 18, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed applications.

LianaChase

Liana Chase
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
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500 W. MADISON, SUITE 3400
CHICAGO IL 60661

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FEB 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Mahany et al.	:	
Application No. 10/101,436	:	DECISION GRANTING PETITION
Filed: March 19, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 14407US01	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 23, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed 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 provisional 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 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 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 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 undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 2665 for appropriate action on the amendment filed January 23, 2006, 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.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 7

ELIAS C. BORGES
1 EVA ROAD, SUITE 406
TORONTO, ON M9C 4Z5
CANADA

COPY MAILED

MAY 19 2004

OFFICE OF PETITIONS

In re Application of	:	
Huffman, Gregory	:	
Application No. 10/101,457	:	ON PETITION
Filed: March 11, 2002	:	
Attorney Docket No. 01-1733	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 10, 2004, to revive the above-identified application.

The petition is **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 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. A Notice of Abandonment was mailed on January 26, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 27 2004

Paper No. 9

In re Application of Gregory Huffman Serial No.: 10/101,457 Filed: March 11, 2002 For: EXTENSION HANDLE FOR WRENCHES	: : : : : :	DECISION REGARDING WITHDRAWAL OF ATTORNEY

By papers filed on June 3, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is DISMISSED.

Attention is invited to MPEP 402.06 and 37 CFR 10.40(c). A petition to withdraw as attorney or agent of record should (1) should indicate the last known mailing address of the applicant, (2) should be signed by all members of the firm or indicate on its face that the member of the firm signing the petition has the authority to withdraw on behalf of all members of the firm, and (3) state the reason(s) for withdrawal as set forth in 37 CFR 10.40(c). The instant petition does not comply with (1) above.

The petition to withdraw as attorney may be renewed if such is done seasonably.

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

Elias C. Borges
1 Eva Road, Suite 406
Toronto, Ontario, Canada M9C 4Z5

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

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON, VA 22209

COPY MAILED

AUG 1 9 2002

OFFICE OF PETITIONS

In re Application of :
Yamada, et al. :
Application No. 10/101,463 : ON PETITION
Filed: March 20, 2002 :
Attorney Docket No.: 503.34065CV3 :

This is a decision on the petition filed July 26, 2002 in response to the Notice of Omitted Item(s) in a Non-Provisional Application ("Notice").

The application was filed March 20, 2002. Notice mailed April 23, 2002 indicated the application had been accorded a filing date but that page 7 of the specification appeared to have been omitted from the application.

The Notice permits applicant to either: (1) establish prior receipt in the PTO of page 7 of the specification or (2) submit the omitted page of specification and accept the date of such submission as the application filing date. An assertion that the missing page of specification was in fact deposited in the PTO with the application papers must made by way of petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted item in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted item with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioner argues that the application as deposited included page 7 of the specification as evidenced by the copy of the return postcard date stamped March 20, 2002 by the Office acknowledging receipt in the USPTO on March 20, 2002 of 101 pages of specification, including the claims and an abstract.

The original page 7 of specification submitted with the application papers has not been located. However, in view of the evidence presented, the Notice mailed April 23, 2002 is hereby **WITHDRAWN** and the petition to accord the application a filing date of March 20, 2002 with page 7 as a part of the original disclosure is **GRANTED**.

Since the original page 7 of the specification cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No fee is due in connection with this matter. Petitioner may request a refund of the previously submitted petition fee of $130.00 by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of March 20, 2002 using the application papers filed on March 20, 2002 and the copy of page 7 of the specification supplied on July 26, 2002.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

for D Wood

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

JUN 25 2002

OFFICE OF PETITIONS

Patent ☒ Trademark ☐

503.34065CV3

Serial No. Filed March 20, 2002

Applicant(s) YAMADA et al.

Papers filed herewith on March 20, 2002

PATENT & TRADEMARK OFFICE MAR 20 2002 JC68

- ☒ Fees $ 740
- ☒ New Application
- ☒ Preliminary Amendment
- ☐ Notice of Appeal
- ☐ Appeal Brief
- ☐ Assignment
- ☐ Letter to Draftsman
- ☐ Priority Documents
- ☐ Petition for Ext. of Time
- ☒ 25 Sheets of Formal Drawings
- ☒ Other Utility Patent Application, Fee Transmittal FY 2002, Specification, Claims (5), and Abstract (101 pgs), Declaration(3 pgs),Figs.1-33,IDS, PTO-1449,Request for Interview, credit card pymt form

Receipt is hereby acknowledged of the papers filed as indicated in connection with above identified case.

COMMISSIONER OF PATENTS AND TRADEMARKS

Response to Rule 312 Communication	Application No.	Applicant(s)	
	10/101,503	TROTTIER ET AL.	
	Examiner	Art Unit	
	Prabodh M. Dharia	2629	

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

1. ☒ The amendment filed on *17 August 2005* under 37 CFR 1.312 has been considered, and has been:

a) ☒ entered.

b) ☒ entered as directed to matters of form not affecting the scope of the invention.

c) ☐ disapproved because the amendment was filed after the payment of the issue fee.
Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

d) ☐ disapproved. See explanation below.

e) ☐ entered in part. See explanation below.

Please all the replies and correspondence should be addressed to Examiner's new art unit 2629.

BIPIN SHALWALA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jeffrey C. Hood, Esq.
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P. O. Box 398
Austin TX 78767-0398

COPY MAILED

MAR 17 2005

OFFICE OF PETITIONS

In re Application of
Peck et al.
Application No. 10/101,507
Filed: March 19, 2002
Attorney Docket No. 5150-65500

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

This is a decision on the petition filed December 21, 2004, which is being treated as a petition under 37 CFR §§1.78(a)(3) and 1.78 (a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§1.78(a)(3) and 1.78(a)(6) and 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) and 1.78(a)(6) 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 applications is submitted after expiration of the period

specified in 37 CFR§§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) .

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78 (a)(5)(ii). Additionally the intermediate applications were filed within twelve months of the filing date of the prior-filed provisional applications, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed 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 and 119(e) to the above-noted, prior-filed applications satisfies the conditions of 37 CFR §§1.78(a)(3) and 1.78(a)(6), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Charlema R. Grant at (571) 272-3215. 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 the examiner of Technology Center Art Unit 2142 for

appropriate action on the amendment filed December 21, 2004 including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for benefit of the prior- filed applications, and for consideration of the claim under 35 U.S.C. §§119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Karen Creasy

Karen Creasy
Petition Examiner
Office of Petition

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/1/09

TO SPE OF : ART UNIT 2128

SUBJECT : Request for Certificate of Correction for Appl. No.: 10101507 Patent No.: 7016811 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 (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

KAMINI SHAH
SUPERVISORY PATENT EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : ~~1/28/05~~ 7/25/06

Paper No.: ---

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/101508 Patent No.: 6889172 B2

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

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

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

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2857

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **September 25,2007**

TO SPE OF : ART UNIT **3652**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/101,537** Patent No.: **6793258 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

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: _____

_____

_____

_____

_____

[signature]
SPE

3652
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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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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JUL 05 2005

OFFICE OF PETITIONS

In re Application of :
Blacker, et al. : LETTER REGARDING PTA AND
Application No. 10/101,554 : CERTIFICATE OF CORRECTION
Filed: March 19, 2002 :
Atty. Dkt. No.: 6298/396 :

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed January 18, 2005. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 156 days.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 156 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants indicate that an error appears in the calculation of PTA and states that an adjustment of 153 days is appropriate.

A review of the application history reveals that the patent term adjustment of 231 days indicated in the Determination of Patent Term Adjustment mailed December 3, 2004 is in error. There was an Office delay of 231 days within the meaning of 37 C.F.R. 1.703(a)(1). There were no further delays attributable to the Office.

The adjustment of 231 days must be reduced a total of 75 days for applicants failure to engage in reasonable efforts to conclude prosecution. In accordance with 37 CFR 1.704(b), a reduction of 68 days can be attributed to applicants. The reduction began July 16, 2004, the day after the date that is three months from the date the non-final Office action was mailed, and ended September 21, 2004, the date an amendment in response to the non-final Office action was filed. A further reduction of 7 days is attributable to applicant in accordance

with 37 CFR 1.704(c)(8). The reduction began September 22, 2004, the day after the date a response to the non-final Office action was filed, and ended September 28, 2004, the date an Information Disclosure Statement was filed.

As applicants are advising us of an error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

This application is being forwarded the Publications Division for issuance of a patent.

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

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

Enclosure: Enclosure: Copy of Adjustment PAIR Calculation

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

PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
3097 Satellite Blvd., 2nd Floor
Duluth, GA 30096

Mail Date: 05/20/2010

Applicant	: Jonathan S. Black	: DECISION ON REQUEST FOR
Patent Number	: 7640214	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/101,574	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1577** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Commissioner for Patents
United States Patent and Trademark Office
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SEP 2 8 2006

OFFICE OF PETITIONS

Myers Bigel Sibley & Sajovec
PO Box 37428
Raleigh, NC 27627

In re Application of :

Alan J. Ying et al. :
Application No. 10/101,577 : DECISION ON PETITION
Filed: March 20, 2002 : TO WITHDRAW
Attorney Docket No. 9306-4 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 7, 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 Needham James Boddie, II on behalf of all attorneys of record who are associated with Customer No. 20792.

All attorneys/agents associated with the Customer No. 20792 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 of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed April 5, 2006 that requires a reply from applicant.

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

for David Bucel
Petitions Examiner
Office of Petitions

cc: **Alan J. Ying**
9 Forest Oaks Drive
Durham, NC 27705

cc: **Thomas J. Freed**
Edwards Angell Palmer & Dodge
Three Stamford Plaza
301 Tresser Boulevard
Stamford, CT 06901

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Peter A. Borsari
3 South Fieldway
Rehoboth Beach, DE 19971

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AUG 11 2005

OFFICE OF PETITIONS

In re Application of:
MITCHELL, Allen R., et al.
Application No.: 10/101,588
Filing Date: March 21, 2002
Attorney's Docket No.: 356.2833
For: PROCESS AND SYSTEM FOR CONTINUOUSLY EXTRACTING OIL FROM SOLID OR LIQUID OIL BEARING MATERIAL

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

This is a decision on the petition under 37 CFR 1.137(b), filed May 03, 2005 to revive the above-entitled application.

The petition is **DISMISSED** without prejudice.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed June 10, 2004, which set a shortened statutory period for reply of three (3) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 10, 2004.

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

The present petition fails to satisfy item (3) above; that is, it fails to include the required statement of unintentional delay. While the petition form submitted by applicants includes the statement "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," the signature line under such statement was not executed. The only signature on the petition form is contained

in the "Deposit Account Authorization" section of the form. Because this section is clearly separated from the remainder of the petition, this signature can not be considered as applying to the statement of unintentional delay.

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

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

By facsimile: (571) 273-0025
Attn: Office Of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22313

Telephone inquiries concerning this decision should be directed to 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
www.uspto.gov

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SEP 22 2005

OFFICE OF PETITIONS

Peter A. Borsari
3 South Fieldway
Rehoboth Beach, DE 19971

In re Application of:
MITCHELL, Allen R., et al.
Application No.: 10/101,588
Filing Date: March 21, 2002
Attorney's Docket No.: 356.2833
For: PROCESS AND SYSTEM FOR CONTINUOUSLY EXTRACTING OIL FROM SOLID OR LIQUID OIL BEARING MATERIAL

DECISION ON RENEWED PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

This is a decision on the "Response To Dismissal Of Petition" filed September 13, 2005, treated herein as a renewed petition under 37 CFR 1.137(b) to revive the application.

The renewed petition is **GRANTED**.

In a decision mailed herein on August 11, 2005, applicants' original petition for revival under 37 CFR 1.137(b) was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to provide the required 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 renewed petition filed September 13, 2005 includes the required statement of unintentional delay. Applicants have therefore now satisfied the remaining requirement for a grantable petition for revival under 37 CFR 1.137(b). Accordingly, the reply to the Office action mailed June 10, 2004 (filed by applicants on May 03, 2005 as part of the original petition for revival) is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 1764

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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

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

COPY MAILED

JUL 17 2002

OFFICE OF PETITIONS

In re Application of :
Kaelin et al. :
Application No. 10/101,662 : DECISION GRANTING PETITION
Filed: March 19, 2002 :
Attorney Docket No. 20363-009 :
(DANA-9) :

This is a decision on the petition filed May 15, 2002, requesting that Figures 20 and 21 described in the specification be accorded a filing date of March 19, 2002, as part of the original disclosure.

On March 19, 2002, applicants filed the above-identified application. On April 19, 2002, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of March 19, 2002, and requiring applicants to submit an executed oath or declaration and a surcharge for its late filing. Additionally, the Notice advised applicants that Figures 20 and 21 described in the specification appeared to have been omitted.

In response, on May 15, 2002, applicants filed the present petition, a copy of two (2) sheet of drawings, containing Figures 20 and 21, and the petition fee. The petition was accompanied by a copy of applicants' postcard receipt acknowledging receipt of "FIGS 1-21" on March 19, 2002.

In the present petition, applicants requested that the application, including Figure 20 and 21, be accorded a filing date of March 19, 2002, and the petition fee be refunded.

Upon review of the record, Figures 20 and 21, deposited on March 19, 2002, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on March 19, 2002, included Figures 20 and 21, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figures 20 and 21, was complete on filing and entitled to a filing date of March 19, 2002.

Accordingly, the petition is granted.

The requirement for the omitted items was sent in error and is hereby vacated. Accordingly, the petition fee is unnecessary and will be credited to Deposit Account No. 50-0311.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 19, 2002, using Figures 1-19 submitted on March 19, 2002, and Figures 20 and 21 submitted on May 15, 2002.

Any inquiries related to this decision should be directed to Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan
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
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Alexandria, VA 22313-1450
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Paper No.

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

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JAN 0 4 2005

OFFICE OF PETITIONS

In re Application
Ushiku et al.
Application No. 10/101,720
Filed: March 21, 2002
Attorney Docket No. 03180.0296

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed May 14, 2004. Applicants request that the initial determination of patent term adjustment be corrected from sixty-four (64) days to at least seventy-nine (79) days.

The request for reconsideration of the initial determination of patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the notice of allowance is **seventy-nine (79)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 26, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 64 days. The instant application for patent term adjustment was timely filed with payment of the Issue Fee. Applicants dispute the number of days reduced for the filing of their response to the Notice to File Missing Parts of Application mailed April 17, 2002.

The record supports a conclusion that the patent issuing from this application is not subject to a terminal disclaimer.

Applicants' argument is well-taken. A review of the application file confirms that applicants' response to the Notice to File Missing Parts of Application mailed April 17, 2002, is of record in the application with a date of receipt by the Office of September 16, 2002. This was outside of the three-month period under 37 CFR 1.704(b). However, the period of delay was sixty-one (61) days, not seventy-six (76) days.

In view thereof, the correct Patent Term Adjustment at the time of mailing of the notice of allowance is 79 days (140 - 61).

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

The application file is being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kerry A. Ferriter
for

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

Enclosure: Copy of REVISED PAIR screen

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

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

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APR 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Xiao, et al. :
Application No. 10/101,814 : ON PETITION
Filed: March 18, 2002 :
Attorney Docket No. CM015061 :

This is a decision on the petition under 37 CFR 1.182, filed March 3, 2003, to correct the name of the first named inventor.

The petition is GRANTED.

The name of the first inventor will be changed from "Xiao Weimin" to -- **Weimin Xiao** --.

The file is being forwarded to Technology Center 2100 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/3/2007

TO SPE OF : ART UNIT 1600 (1624)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,112,607

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** - Tel. No. 305-8309

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

***ok to enter formula as req. in COCIN in Madras?**

Ernest C. White, LIE (703) 308-9390x122
Thank You For Your Assistance **Certificates of Correction Branch**

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

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

Comments:

_____

_____

_____

_____

_____

SPE _____ Art Unit 1623

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WECHSLER & WECHSLER, P.C.
Suite 9
One Barstow Road
Great Neck NY 11021

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DEC 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Harry W. WATNIK :
Application No. 10/101,821 : ON PETITION
Filed: March 19, 2002 :
Attorney Docket No. W1002-2 :

This is a decision on the petition, filed September 30, 2005, requesting withdrawal of the Notice of Abandonment mailed July 26, 2005 under the provisions of 37 CFR 1.8(b).

The petition is **GRANTED**.

Petitioner requests the Notice of Abandonment mailed July 26, 2005 for failure to respond to the Office action mailed December 22, 2004 (the Notice of Abandonment refers to the Office letter mailed March 22, 2005, however, no such action was mailed) be withdrawn as petitioner timely filed a response. As evidenced by the attached amendment with a certificate of mailing date of March 22, 2005 a response was timely entrusted to the mails, but not received at the USPTO.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 3764 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Allen H. Erickson
26 Hatfield Avenue
Sidney NY 13838

In re Application of :
Michael V. Ryden :
Application No. 10/101,841 : DECISION ON PETITION
Filed: 03/19/2002 :
Attorney Docket No. 6190A :

This is a decision on the petition filed on August 17, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

On October 5, 2005, the Office mailed a Notice of Non-Responsive Amendment, which set a period of one month or thirty days, whichever was longer, to reply. In the apparent absence of a timely filed response, a Notice of Abandonment was mailed on April 10, 2006.

Petitioner asserts that a proper response was filed timely. In support of the petition, petitioner submits a copy of a returned, date-stamped postcard receipt, acknowledging receipt of an "Amendment and Response to Notice of Non-Responsive Amendment" in the USPTO on Monday, November 7, 2005. Copies of these documents are included with this petition.

The Office has not located the original correspondence. Nevertheless, section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was filed timely in the USPTO on Monday, November 7, 2005, but was not matched with the application.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **granted**. The $750.00 petition fee is unnecessary and will be refunded by treasury check in due course.

This matter is being referred to Technology Center Art Unit 2617.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Date Mailed : September 9, 2003

Patent No. : 6,601,479
Inventor : Solomon KRAMER
Patent Issued : August 4, 2003
Title : COMBINED SEMICONDUCTOR APPARATUS WITH THIN SEMICONDUCTOR FILMS

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 1.323.

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to column 1, line 36 and 62; Incomplete specification, also reference 13 is used for two different elements. Drawings would need to be corrected. Accordingly, the Letters Patent with respect to applicants request is considered in accordance with the records in the Patent and Trademark Office. 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.

In view of the foregoing applicants request in this matter is hereby denied.

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

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Peter N. Lalos – Stevens, Dvis, Miller & Mosher, LLP
1615 L St., N.W. Suite 850
Washington, DC 20036

CBN/arg

PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays 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)
6705029	2004-03-16	10/101,864	2002-03-21	112507-00

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/lance a. foster/	Date (YYYY-MM-DD)	2009-04-14
Name	Lance A. Foster	Registration Number	38882

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. 6705029
Issue Date: March 16,2004
Application No. 10101864
Filed: March 21,2002
Attorney Docket No. 21242/PNL

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

This is a decision on the electronic petition, filed April 15,2009 ,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 April 15,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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OFFICE OF PETITIONS

In re Application of
Hugo Patterson et al.
Application No. 10/101,901
Filed: March 19, 2002
Attorney Docket No. **112056-0056**

ON PETITION

This is a decision on the petition filed November 7, 2008 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned November 7, 2008 for failure to timely pay the issue fee on or before November 6, 2008. Accordingly, a Notice of Abandonment was mailed November 12, 2008 after the filing of the instant petition.

The issue fee in the amount of $1510.00, petition fee in the amount of $1620.00 and publication fee in the amount of $300 have been charged to petitioner's deposit account no. 03-1237 as authorized. 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

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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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SEP 15 2005

Thomas G. Dom
6869 E. Vernon Ave.
Scottsdale, AZ 85257

In re Application of	:	**DECISION ON PETITION**
Thomas G. Dom	:	**TO WITHDRAW THE**
Application No. 10/101,920	:	**HOLDING OF**
Filed: March 20, 2002	:	**ABANDONMENT**

For: ENDLESS TRACK CONSTRUCTED FROM VEHICLE TIRE

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on December 28, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action mailed April 21, 2004, which set a three-month shortened statutory period. No response was received and a Notice of Abandonment was mailed on December 15, 2004.

Petitioner contends that a response was filed on July 26, 2004 and the USPTO lost 19 pages of this response.

Withdrawal of abandonment can only be made upon a showing by Applicant that a response was timely filed. Such a showing may include a certificate of mail or transmission, a USPTO date stamped post card receipt, or an auto-fax reply.

In this regard, 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 transmitting the original response on the date

indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512), by the person who signed the certificate.

No copy of a postcard receipt or auto-fax reply has been submitted.

Petitioner has not submitted any evidence showing a timely response to the Office action of April 21, 2004. A single page list of references was received on July 26, 2004, however this is not considered to be a response to the Office action.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/js: 9/1/05

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THOMAS DOM
6869 E VERNON AVE.
SCOTTSDALE AZ 85257

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JAN 24 2006

OFFICE OF PETITIONS

In re Application of :
Thomas G. Dom :
Application No. 10/101,920 : DECISION ON PETITION
Filed: 20 March, 2002 :
For: ENDLESS TRACK CONSTRUCTED :
FROM VEHICLE TIRE :

This is a decision on the petition filed on 28 November, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 22 July, 2004, for failure to timely respond to the non-final Office action mailed on 21 April, 2004, 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 15 December, 2004.

---

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

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

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

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

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

Petitioner submitted an amendment and a petition to withdraw the holding of abandonment on 28 December, 2004. The petition to withdraw the holding of abandonment was dismissed on 15 September, 2005.

The present petition to revive was filed on 28 November, 2005. Petitioner indicates that the previously filed amendment is the required reply.

The application is being forwarded to Technology Center Art Unit 3617 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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THOMAS DOM
6869 E. VERNON AVE
SCOTTSDALE, AZ 85257

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MAY 28 2008

OFFICE OF PETITIONS

In re Application of :
Thomas G. DOM :
Application No. 10/101,920 :
Filed: March 20, 2002 :
Attorney Docket No. :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 27, 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 June 12, 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 September 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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

This application is being referred to Technology Center AU 3617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 11

JEFFREY D. JENKINS
512 AMES STREET
LIBERTYVILLE. IL 60048

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JUN 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Jenkins, Jeffrey D. :
Application No. 10/101,932 : ON PETITION
Filed: March 21, 2002 :
Attorney Docket No. 4798-001 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 27, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed November 25, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 26, 2003. A Notice of Abandonment was mailed July 1, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $60.00 extension of time fee submitted with the petition on May 27, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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 solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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 notify the Office.

This matter is being referred 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.: LOWE HAUPTMAN & BERNER, LLP
1700 DIAGONAL ROAD, SUITE 300
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of	:	
Jenkins, Jeffrey Dale	:	
Application No. 10/101,932	:	ON PETITION
Filed: March 21, 2002	:	
Attorney Docket No. 4798-001	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 1, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 13

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 2231

JUN 10 2004

In re Application of:
SHUMACHER *et al.*
Serial No.: 10/101,942
Filed: March 21, 2002
Attorney Docket No.: **220585US0X**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed on August 28, 2003, and supplemented on November 28, 2003, under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Office action mailed on November 29, 2002. A Notice of Abandonment was mailed on July 30, 2003.

Petitioner asserts that on February 28, 2003, a response including a request for reconsideration was filed. To support this assertion, petitioner has submitted a copy of the response, and a copy of a return postcard, which acknowledges receipt in the USPTO of an amendment on February 28, 2003.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on February 28, 2003, is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states, "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received in the PTO but lost somewhere after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response submitted with the supplement to the petition on November 28, 2003, is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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DEC 07 2009

OFFICE OF PETITIONS

In re Patent No. 7,164,394 :
Issue Date: January 16, 2007 :
Application No. 10/102,017 : ON PETITION
Filed: March 21, 2002 :
Attorney Docket No. **23.1095** :

This is a corrected decision on the petition filed September 29, 2009, 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**.

Petitioner states that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

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

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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.

JoAnne Burke
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
DIW 09-02

Paper No. 5

JOHN L. CORDANI, ESQ.
CARMODY & TORRANCE LLP
P.O. BOX 1110
50 LEAVENWORTH STREET
WATERBURY CT 06721-1110

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SEP 0 5 2002

OFFICE OF PETITIONS

In re Application of	
Barclay, Nordenstrom, Jankovich,	
Shell, Matz, Knaack, Anderson,	
Campion, Gonier, Olsen, Malecha,	DECISION ACCORDING STATUS
Ladas, Bigaoutte, Schmidt, Lidke,	UNDER 37 CFR 1.47(a)
and Kragtorp	
Application No. 10/102,048	
Filed: 20 March, 2002	
Attorney's Docket No. 2156-124B	

This is in response to the petition under 37 CFR 1.47(a) filed on 20 June, 2002.

The petition is **GRANTED**.

Petitioners have shown that non-signing inventor Daniel L. Jankovich could not be located and that non-signing inventors Dennis B. Shell, Ivor F. Matz, Peter E. Malecha, Mark E. Olsen, and Robert A. Schmidt, have refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established, via the letter signed by registered patent attorney Jennifer A. Calcagni, that a copy of the above-identified application was sent via Certified Mail to the non-signing inventors' addresses. Petitioners have shown that non-signing joint inventor Jankovich could not be located despite petitioners attempts to reach him at two different addresses. Additionally, non-signing joint inventor Olsen returned a written refusal to sign the declaration. The other non-signing inventors also failed to sign and return the declaration naming them as joint inventors along with Aaron G. Barclay, Dale G. Nordenstrom, John

L. Knaack, Kevin R. Campion, Larry W. Gonier, Richard J. Bigaoutte, Steven L. Lidke, and Wade A. Kragtorp.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the declaration for all inventors except joint inventor Jankovich. For joint inventor Jankovich, although petitioners have provided two (2) addresses, the address of 3017 Calhoun Parkway Apt. 3, Minneapolis, MN 55408 will be construed as the last known address, as a brief Internet search suggests that address to be the more recent address. Notice of the application's filing will be forwarded to Jankovich at that address. Petitioners **must** inform the Office if this is an incorrect interpretation. Notice of the filing of this application will also be published in the Official Gazette.

Counsel's deposit account, No. 50-0447, will be charged the petition fee of $130.00.

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
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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DIW 09-02

Robert Schmidt
4523 Hummingbird Trail NE
Prior Lake, MN 55372

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SEP 0 5 2002

OFFICE OF PETITIONS

In re Application of
Barclay et al.
Application No. 10/102,048
Filed: 20 March, 2002
For: CO-OPERATING MECHANICAL SUBASSEMBLIES FOR A SCANNING CARRIAGE, DIGITAL WIDE-FORMAT OLOR INKJET PRINT ENGINE

Dear Mr. Schmidt:

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

JOHN L. CORDANI, ESQ.
CARMODY & TORRANCE LLP
P.O. BOX 1110
50 LEAVENWORTH STREET
WATERBURY CT 06721-1110

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 09-02

Dennis B. Shell
7243 40th Street, West
Webster, MN 55088

COPY MAILED

SEP 0 5 2002

OFFICE OF PETITIONS

In re Application of
Barclay et al.
Application No. 10/102,048
Filed: 20 March, 2002
For: CO-OPERATING MECHANICAL SUBASSEMBLIES FOR A SCANNING CARRIAGE, DIGITAL WIDE-FORMAT OLOR INKJET PRINT ENGINE

Dear Mr. Shell:

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

JOHN L. CORDANI, ESQ.
CARMODY & TORRANCE LLP
P.O. BOX 1110
50 LEAVENWORTH STREET
WATERBURY CT 06721-1110

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
www.uspto.gov
DIW 09-02

Peter E. Malecha
14175 Bluebird Trail NE
Prior Lake, MN 55375

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SEP 0 5 2002

OFFICE OF PETITIONS

In re Application of
Barclay et al.
Application No. 10/102,048
Filed: 20 March, 2002
For: CO-OPERATING MECHANICAL SUBASSEMBLIES FOR A SCANNING CARRIAGE, DIGITAL WIDE-FORMAT OLOR INKJET PRINT ENGINE

Dear Mr. Malecha:

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

JOHN L. CORDANI, ESQ.
CARMODY & TORRANCE LLP
P.O. BOX 1110
50 LEAVENWORTH STREET
WATERBURY CT 06721-1110

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DIW 09-02

Ivor F. Matz
3220 Edgremere NE
St. Anthoony, MN 55418

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SEP 0 5 2002

OFFICE OF PETITIONS

In re Application of
Barclay et al.
Application No. 10/102,048
Filed: 20 March, 2002
For: CO-OPERATING MECHANICAL SUBASSEMBLIES FOR A SCANNING CARRIAGE, DIGITAL WIDE-FORMAT OLOR INKJET PRINT ENGINE

Dear Mr. Matz:

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

JOHN L. CORDANI, ESQ.
CARMODY & TORRANCE LLP
P.O. BOX 1110
50 LEAVENWORTH STREET
WATERBURY CT 06721-1110

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 09-02

Mark Olsen
5356 139th Street West
Savage, MN 55378

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SEP 0 5 2002

OFFICE OF PETITIONS

In re Application of
Barclay et al.
Application No. 10/102,048
Filed: 20 March, 2002
For: CO-OPERATING MECHANICAL SUBASSEMBLIES FOR A SCANNING CARRIAGE, DIGITAL WIDE-FORMAT OLOR INKJET PRINT ENGINE

Dear Mr. Olsen:

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

JOHN L. CORDANI, ESQ.
CARMODY & TORRANCE LLP
P.O. BOX 1110
50 LEAVENWORTH STREET
WATERBURY CT 06721-1110

UNITED STATES PATENT AND TRADEMARK OFFICE

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DFW 09-02

Daniel L. Jankovich
3017 Calhoun Parkway, Apt. 3
Minneapolis, MN 55408

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SEP 05 2002

OFFICE OF PETITIONS

In re Application of
Barclay et al.
Application No. 10/102,048
Filed: 20 March, 2002
For: CO-OPERATING MECHANICAL SUBASSEMBLIES FOR A SCANNING CARRIAGE, DIGITAL WIDE-FORMAT OLOR INKJET PRINT ENGINE

Dear Mr. Jankovich:

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

JOHN L. CORDANI, ESQ.
CARMODY & TORRANCE LLP
P.O. BOX 1110
50 LEAVENWORTH STREET
WATERBURY CT 06721-1110

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COOK, ALEX, MCFARRON, MANZO, CUMMINGS & MEHLER LTD
SUITE 2850
200 WEST ADAMS STREET
CHICAGO, IL 60606

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JUN 0 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ramiro Arrez, et al. :
Application No. 10/102,060 :
Filed: March 20, 2002 :
Attorney Docket No. PERK 105 :

This is a decision on the petition, filed June 2, 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 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 (703) 305-9220.

The application is being referred to Technology Center AU 3651 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-25-09

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/102080 Patent No.: 6902735

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

Eileen B. O'Hara 1644

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

FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVENUE, SUITE 360
MISSION VIEJO CA 92691

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APR 13 2006
OFFICE OF PETITIONS

In re Application of
Yilliang Bao et al.
Application No. 10/102,105
Filed: March 20, 2002
Attorney Docket No. 0190139

ON PETITION

This is a decision on the petition filed March 27, 2006, under 37 CFR 1.181, to withdraw the holding of abandonment. The petition is also filed in the alternative under 37 CFR 1.137(a) and 1.137(b).

The petition under 37 CFR 1.181 is **GRANTED**.
The petition under 37 CFR 1.137(a) is **DISMISSED** as involving moot issues.
The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

This application became abandoned January 9, 2006 for failure to timely pay the issue fee in response to the Notice of Allowance mailed October 6, 2005. Accordingly, a Notice of Abandonment was mailed February 27, 2006.

Petitioner argues that the Notices mailed October 6, 2005 were mailed to the prior attorneys of record even though a revocation and power of attorney was filed April 6, 2005. Petitioners provide a copy of the revocation and power of attorney as well as a postcard receipt date stamped by the USPTO on April 6, 2005, 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 April 6, 2005 but that the USPTO records were not updated until after the Notices were mailed. Further, 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. The fee submitted for the petition under 37 CFR 1.137(b) in the amount of $1500.00 will be credited to deposit account no. 50-0731.

In view thereof, there is no need to treat the petition under the unavoidable and unintentional standards.

The Notice of Abandonment is withdrawn and this matter is being referred to Technology Center 2625 for processing the RCE filed March 27, 2006 with an amendment as required by 37 CFR 1.114, prior to payment of the issue fee and in lieu thereof.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/3/2007

TO SPE OF : ART UNIT 2800 (2813)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,078,356

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

Please complete this form and return with file ***(PFW)**, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward ***(IFW)** to scanning using document code **COCX**.

***Ok to enter changes 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:

The correction appears to introduce subject matter that was not previously considered by the examiner

SPE — 2813 Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/25/2007

TO SPE OF : ART UNIT 2800 (2813)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,078,356

Attn: David Blum

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.

Reconsideration of previously denied request for certificate of correction, please review.

Thank You For Your Assistance

Ernest C. White, LIE - 308-9390x122
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:

All but one change is approved. The change to Page 3, OTHER PUBLICATIONS, should NOT be deleted as this was properly cited on the PTO-892 of 11/02. All other changes are approved

Martin J. Fruh AU 2813
SPE of AU2823

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/25/2007

TO SPE OF : ART UNIT 2800 (2813)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,078,356

Attn: David Blum

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.

Reconsideration of previously denied request for certificate of correction, please review.

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.

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

Comments:

All but one change is approved. The change to Page 3, OTHER PUBLICATIONS, should NOT be deleted as this was properly cited on the PTO-892 of 11/02. All other changes are approved

Marcus J. Smith AU 2813
SPE of AU2823

PAGE 2/2 * RCVD AT 1/30/2009 3:03:40 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/27 * DNIS:2709943 * CSID: * DURATION (mm-ss):00-36

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 6

EPSTEIN, EDELL, SHAPIRO, FINNAN & LYTLE, LLC
1901 RESEARCH BLVD
SUITE 400
ROCKVILLE, MD 20850

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SEP 1 0 2002

OFFICE OF PETITIONS

In re
Peter Winch and Richard Billingsley
Reissue Application No. 10/102,140
Filing Date: March 21, 2002
Reissue of Patent No. 6,040,969
Original Issue Date: March 21, 2000
Attorney Docket No. 0520.0002C

DECISION ACCORDING STATUS UNDER § 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 19, 2002.

The petition is **GRANTED**.

The above-identified reissue application of patent No. 6,040,969 (Issued March 21, 2000) was filed on March 21, 2002, with the written consent of assignee and statement under 37 CFR 3.73(b), but without an executed reissue declaration[1]. Accordingly, on April 24, 2002, the Office mailed a "Notice to File Missing Parts of Reissue Application," requiring an executed oath or declaration. This Notice set a two-month period for reply, with extensions of time obtainable under §1.136(a).

Applicant replied with the instant petition under § 1.47, made timely by an accompanying petition for a two-month extension of time (and fee); payment of the petition fee; and reissue declaration executed by joint inventor Winch on behalf of himself and on behalf of non-signing inventor Billingsley. Rule 47 applicant asserts that status under § 1.47 is proper because inventor Billingsley refuses to join in the application. In support of the petition, applicants submitted the declaration of patent attorney Patrick Finnan, setting forth based on firsthand knowledge the facts and events relating to inventor Billingsley's refusal to join in the application.

This evidence has been considered and it is concluded that rule 47 applicant has shown that non-signing inventor Billingsley has refused to join in the filing of the above-identified application after having been presented with the application papers.

---

[1]37 CFR 1.172 (a) provides that:

A reissue oath must be signed and sworn to or declaration made by the inventor or inventors except as otherwise provided (see §§1.42, 1.43, 1.47), and must be accompanied by the written consent of all assignees, if any, owning an undivided interest in the patent, but a reissue oath may be made and sworn to or declaration made by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent. All assignees consenting to the reissue must establish their ownership interest in the patent by filing in the reissue application a submission in accordance with the provisions of §3.73(b) of this chapter.

The reissue declaration filed August 19, 2002, and the petition 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 new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Wen Liu
LIU & LIU LLP
Suite 1100
811 West 7th Street
Los Angeles CA 90017

Paper No. 4

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JUL 1 8 2002

OFFICE OF PETITIONS

In re Application of
Bhat, et al.
Application No. 10/102,142
Filed: March 19, 2002
Attorney Docket No. 1017/238
For: DISTRIBUTIVE OPTICAL SWITCHING CONTROL SYSTEM

DECISION DISMISSING PETITION

This is a decision on the petition filed June 3, 2002 (certificate of mailing date May 21, 2002), requesting that the above-identified application be accorded a filing date of March 18, 2002, rather than the presently accorded filing date of March 19, 2002.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on March 18, 2002, pursuant to the requirements of 37 CFR 1.10. Petitioners acknowledge that the date of deposit in Express Mail shown on petitioners' Express Mail receipt is March 19, 2002, but argue that the application was actually entrusted to a postal clerk on March 18, 2002 on or about 11:55 pm

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

(Emphasis supplied). Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last

scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed June 3, 2002 (certificate of mailing date May 21, 2002), is not accompanied by the corroborating evidence required by the rule. The recollections of Wen Liu, as stated in the petition, were made months after the event in question. Thus, they are not recognized as corroborating evidence of a March 18, 2002 deposit.

Accordingly, the petition is dismissed.

Acceptable corroborating evidence would be either a statement from the postal clerk who accepted the package on March 18, 2002 or contemporaneous business records, such as a mail log at the firm, e-mails, or other letters, that show that the package was in the possession of the USPS employee on March 18, 2002. The business records must have been created within one business day of the deposit. Petitioners could submit a statement from the postal clerk who accepted Express Mail package no. EL715298491US on March 18, 2002, attesting to the fact that she was in possession of the package on March 18, 2002.

A petition under 37 CFR 1.10(d) is a feeless petition. Thus, the $130.00 petition fee will be credited to deposit account no. 50-1288.

The application is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of March 19, 2002.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/16/09

TO SPE OF : ART UNIT 2613

SUBJECT : Request for Certificate of Correction for Appl. No.: 10102142 Patent No.: 7437071

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

[redacted]

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

KENNETH VANDERPUYE
SUPERVISORY PATENT EXAMINER

2613

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

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JAN 2 1 2005

OFFICE OF PETITIONS

In re Application of :
Grant Hieshima :
Application No. 10/102,152 : ON PETITION
Filed: March 19, 2002 :
Attorney Docket No. CRD1033

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 3, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 3731 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

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September 15, 2006

FILE COPY

Patent No. : 6,994,711 B2
Ser. No. : 10/102154
Inventor(s) : Hieshima, et al.
Issued : February 7, 2006
Title : **SMALL DIAMETER EMBOLIC COIL HYDRAULIC DEPLOYMENT SYSTEM**
Docket No. : **CRD1031USCNT1**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (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 or (703) 308-8309

Philip S. Johnson, Esq.
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick NJ 08933-7003

CBN/eme

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P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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JUL 19 2006

OFFICE OF PETITIONS

In re Application of :
Duffy et al. :
Application No. 10/102,169 :
Filed: March 30, 2002 : ON PETITION
Attorney Docket Number: :
11835-028001 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 6, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 25, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on November 26, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the instant petition and continuation application.

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 the Continuation Application, No. 11/364,018, filed February 27, 2006.

This application is being forwarded to the files repository.

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

Derek L. Woods
Attorney
Office of Petitions

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SEP 0 2 2008

OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of :
John W. Commissiong et al. :
Application No. 10/102,265 : ON PETITION
Filed: March 20, 2002 :
Attorney Docket No. 50097/011002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 30, 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, April 28, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 29, 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 $770.00, and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1649 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Ray Akhavan
Wilson, Sonsini, Goodrich & Rosati, PC
650 Page Mill Road
Palo Alto, CA 94304

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of :
Commissiong, et al. :
Application No. 10/102,265 : ON PETITION
Filed: March 20, 2002 :
Attorney Docket No50097/011002 :

This is a decision on the petition under 37 CFR 1.137(a), filed September 25, 2008, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**

The application became abandoned for failure to reply to the non-final Office action mailed April 28, 2006, which set a shortened period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on July 29, 2006. A Notice of Abandonment was mailed on January 10, 2007. A petition under 37 CFR 1.137(b) was filed on May 30, 2008, and granted by a decision mailed September 2, 2008.

As application has been revived pursuant to 37 CFR 1.137(b), there is no remedy that can be provided under 37 CFR 1.137(a). The petition under 37 CFR 1.137(a) is dismissed as moot, accordingly[1].

The petition fee of $510.00 will be refunded in due course.

The file is now being forwarded to Technology Center 1600, GAU 1649 for further processing.

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

K.A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] Petitioner is advised that this decision was not reached by the undersigned unilaterally. A supervisor in the Office of Petitions was consulted prior to the disposition of the petition.

UNITED STATES PATENT AND TRADEMARK OFFICE

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PALO ALTO CA 94304-1050

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APR 26 2007

OFFICE OF PETITIONS

In re Application of :
HAROLD G. CRAIGHEAD et al. :
Application No. 10/102,268 :
Filed: March 19, 2002 :
Attorney Docket No. 32497-705.201 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 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 May 18, 2006, which set a shortened statutory period for reply of three (3) months. No Extensions of time under the provision of CFR 1.136 (a) was obtained. Accordingly, the above-identified application became abandoned on August 19, 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. Accordingly, the reply to the non-final Office Action of May 18, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Jean F. Duverne at (571) 272-6051 or in his absence to the undersigned.

This application is being referred to Technology Center AU 1651 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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COOK ALEX McFARRON MANZO
CUMMINGS & MEHLER
SUITE 250
200 WEST ADAMS STREET
CHICAGO, IL 60606

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APR 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Masaaki Hiroki et al :
Application No. 10/102,277 : ON PETITION
Filed: March 18, 2002 :
Attorney Docket No. SEL 306 :

This is a decision on the petition under 37 CFR 1.313, filed April 1, 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 March 29, 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 application file is being referred to Technology Center AU 2812 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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Paper No. 6

ALAN J. ATKINSON
P. O. BOX 270161
HOUSTON, TX 77277-0161

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OFFICE OF PETITIONS

In re Application of :
Norris Hayes :
Application No. 10/102,296 : ON PETITION
Filed: March 20, 2002 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed October 5, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 19, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 20, 2003.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address 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) 272-3229.

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

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Richard A. Fagin
P. O. Box 1247
Richmond, TX 77406-1247

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PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO, CA 94111

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OFFICE OF PETITIONS

In re Application of :
Ping Chang et al :
Application No. 10/102,351 : ON PETITION
Filed: March 19, 2002 :
Attorney Docket No. M-12513 US :

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed September 8, 2003, which set a shortened statutory period for reply of three (3) months. Three months extension of time under the provision of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on March 9, 2004.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on September 29, 2004.

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

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

This matter is being forwarded to Technology Center AU 1763 for further processing.

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

cc:

Ira Lee Zebrak
The BOC Group, Inc.
Legal Services-Intellectual Property
575 Mountain Ave.
Murray Hill, NJ 07974

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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LENOVO (US) IP Law
1009 Think Place
Building One, 4th Floor 4B6
Morrisville, NC 27560

Mail Date: 04/21/2010

Applicant	: Takashi Inui	: DECISION ON REQUEST FOR
Patent Number	: 7587618	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/102,352	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1885** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 03-03

Paper No. 9

HOWREY SIMON ARNOLD & WHITE
750 BERING DRIVE
HOUSTON TX 77057-2198

COPY MAILED

MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Michael L. Zawinsky	:	
Application No. 10/102,356	:	DECISION DISMISSING
Filed: 25 July, 2002	:	PETITION
Attorney Docket No.	:	
75146.0001.000000/Deaver	:	

This is a decision in reference to the paper styled as a petition under 37 CFR 1.181(a) and 1.53(e) filed on 19 February, 2003, which is treated as a petition requesting that the above identified application be accorded a filing date of 20 March, 2002, with drawings as a part of the original disclosure.

The petition is **dismissed**.

The application was deposited on 20 March, 2002, without drawings. On 25 July, 2002, applicant filed four (4) sheets of drawings and a preliminary amendment claiming priority to provisional Application No. 60/277,395, filed on 20 March, 2001. On 10 December, 2002, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date because the application has been deposited without drawings, and that the filing date would be the date that the drawings were received. A two (2)-month period for reply was set.

The present petition was filed on 19 February, 2003 (certificate of mailing 10 February, 2003). Petitioners assert that the application claims priority to provisional Application No. 60/277,395, filed on 20 March, 2002, and that the prior-filed provisional application contains the drawings which were inadvertently omitted from the subject application.

The arguments have been considered, but are not persuasive. The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals that no sheets of drawings were filed on 20 March, 2002. An applicant alleging

that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. 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. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[1]

At the outset, it is noted that had petitioner utilized an itemized return postcard in accordance with Section 503 of the Manual of Patent Examining Procedure (MPEP), petitioner could have avoided the predicament that has now occurred. 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 of the items listed thereon on the date stamped thereon by the USPTO. Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. 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. The postcard receipt will not

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[1] MPEP 503.

serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[2] However, due to the absence in the record of a postcard receipt itemized with respect to the drawings that bears a USPTO date stamp of 30 March, 2002, showing that drawings were received in the USPTO on 30 March, 2002, the application cannot be accorded a filing date of 30 March, 2002.

Petitioner further states that this application claims priority to prior-filed Application No. 60/277,395 and that the prior application is incorporated into the present application. At the outset, it is noted that only material which was contained in the prior application and would not be considered new matter in the prior application may be incorporated by reference. Furthermore, whether the drawings were part of a copending application is not an issue here, however, since the copending application was not specifically incorporated by reference into the disclosure of this application.[3] To allow one to retroactively incorporate by reference a second application into a first application would allow the addition of matter into an application that was not present on filing which would be contrary to our statutes and rules. Still further, the question of new matter is not an issue here. The drawings were simply not filed in the present application in the USPTO on 20 March, 2002.

In addition to a properly itemized postcard, petitioner may avoid in the future the predicament which has occurred 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 petitioner to amendment the continuing application to include any subject matter in such prior application(s), without the need for a petition.[4]

With regard to petitioner's argument that drawings are not required for an understanding of the invention, the Examiner has determined that drawings are required for an understanding of the invention. Therefore, the application will not be accorded a

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[2] MPEP 503.

[3] See MPEP 608.01(p).

[4] MPEP 201.06(c).

filing date without the drawings.

Petitioner also requests, in the alternative, that the application be accorded a filing date of 12 July, 2002. However, a review of the Official file reveals that no drawings were received on 12 July, 2002. Rather, the drawings were received on 25 July, 2002. As described above, in the absence of convincing evidence, the filing date will be the date the drawings were received. Therefore, the application will be accorded a filing date of 25 July, 2002.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

The application will be processed and examined with a filing date of 25 July, 2002, using the application papers filed on 20 March, 2002, and the drawings supplied on 25 July, 2002. The application papers filed with the present petition will not be used for processing or examination, but will be retained in the application file.

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

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

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

As this petition was not necessitated by an error on the part of the USPTO, the petition fee will not be refunded.

The application file will be forwarded to Initial Patent Examination Division for reprocessing with a filing date of **25 July, 2002**, using the 9 pages of specification filed on 30 March, 2002, and the four (4) sheets of drawings supplied on 25 July, 2002.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

September 14, 2004

Joh P. Christensen
Welsh & Katz
120 South Riverside Plaza
22nd Floor
Chicago, IL 60606

In re application of:
Kenneth Conner
Serial No.: 10/102,366
Filed: March 20, 2002
For: Gun Magazine

In response to the petition received on December 5, 2003, to withdraw the holding of abandonment in the above application.

The decision is moot in reference to the Abandonment Withdrawal Notice issued on April 26, 2004.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : March 14, 2005

TO SPE OF : ART UNIT 1732

SUBJECT : Request for Certificate of Correction on Patent No.: 6,852,269 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:

MICHAEL P. COLAIANNI
SUPERVISORY PATENT EXAMINER

SPE: ____ **Art Unit** 1732

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dunlap, Codding & Rogers, P.C.
PO Box 16370
Oklahoma City OK 73113

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FEB 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Donald E. Weder	:	
Application No. 10/102,393	:	DECISION ON PETITION
Filed: March 18, 2002	:	
Attorney Docket No. 8403.544	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 15, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely pay the issue and publication fees on or before August 20, 2004, as required by the Notice of Allowance and Fee(s) Due, mailed May 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 23, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by

37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the

initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on August 23, 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Dunlap, Codding & Rogers, P.C.was counsel of record at the time of abandonment, Dunlap, Codding & Rogers, P.C. should explain why this application became abandoned while it was under their control and what efforts Dunlap, Codding & Rogers, P.C. made to further reply of itself and with whom this matter was discussed outside of Dunlap, Codding, & Rogers. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Dunlop, Codding & Rogers, P.C. and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Dunlop, Codding & Rogers, P.C., and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Dunlop, Codding, & Rogers, P.C. and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and

(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DUNLAP, CODDING & ROGERS, P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

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MAR 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Donald E. Weder :
Application No. 10/102,393 : DECISION ON PETITION
Filed: March 18, 2002 :
Attorney Docket No. 8403.544 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 1, 2008, 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 August 20, 2004, as required by the Notice of Allowance and Fee(s) Due mailed May 20, 2004. Accordingly, the date of abandonment of this application is August 21, 2004. A Notice of Abandonment was mailed September 24, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400.00 and publication fee of $300.00 (previously paid on May 15, 2007); (2) the petition fee of $1,500.00 (previously paid on May 15, 2007); and (3) a proper statement of unintentional delay.

Further, petitioner has submitted an unnecessary additional $40.00 petition fee and $40.00 issue fee that will be refunded to petitioner's credit card in due course.

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/12/09

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction for Appl. No.: 10102393 Patent No.: 7523824 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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.

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

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Comments: _____

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_____ AU 3728

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATRICK G. BURNS
GREER BURNS & CRAIN, LTD.
300 SOUTH WACKER DRIVE, SUITE 2500
CHICAGO, IL 60606

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OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Hiromi Enomoto et al :
Application No. 10/102,453 : DECISION DISMISSING PETITION
Filed: March 20, 2002 : UNDER 37 CFR 3.81(b)
Attorney Docket No. 0113.66330 :

This is a decision on the petition, filed August 25, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **dismissed**.

Petitioner states that the correct assignee's name is Sharp Kabushiki Kaisha and that an incorrect assignee's name was unintentionally included on Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner herein requests that the patent issue to Sharp Kabushiki Kaisha.

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

---

[1] See Official Gazette of June 22, 2004

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

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

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

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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MAY 23 2006

OFFICE OF PETITIONS

In re Application of :
Atkins :
Application No. 10/102,455 : ON PETITION
Filed: March 20, 2002 :
Attorney Docket No. CDS-262 :
For: METHOD FOR PROVIDING
CLINICAL DIAGNOSTIC SERVICES

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

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the March 18, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on June 19, 2005. A Notice of Abandonment was mailed on January 31, 2006.

Applicant has submitted an amendment in reply to the March 18, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the March 18, 2005 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1631 for consideration of the amendment filed on February 6, 2006.

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

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JAN 26 2007

MONSANTO COMPANY
800 N. LINDBERGH BLVD.
ATTENTION: GAIL P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS MO 63167

In re Application of	:
David a. Fischhoff et al	:
Serial No.: 10/102,469	: PETITION DECISION
Filed: March 19, 2002	:
Attorney Docket No.: 28079/41786	:

This is a response to the petitions under 37 CFR 1.59(b), filed by facsimile on December 13, 2006, to expunge information from the above identified application.

Petitioner requests that documents purportedly submitted December 13, 2006, as a Proprietary Information Disclosure Statement be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

This application has not yet been examined on the merits. Applicants' petition was submitted by facsimile transmission and contains a list of documents which are proprietary. However the documents have not been submitted and cannot be submitted by facsimile transmission. Since the documents have not been submitted the petition to return them is moot.

The petition is **DISMISSED**.

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 above address, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number, 571-273-8300.

George Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 27 2007

Commissioner for Patents
United States Patent and Trademark Office
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MONSANTO COMPANY
800 N. LINDBERGH BLVD.
ATTENTION: GAIL P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS MO 63167

In re Application of	:	
David a. Fischhoff et al	:	
Serial No.: 10/102,469	:	PETITION DECISION
Filed: March 19, 2002	:	
Attorney Docket No.: 28079/41786	:	

This is a response to the renewed petition under 37 CFR 1.59(b), filed by facsimile on March 2, 2007, to expunge information from the above identified application.

Petitioner requests that documents purportedly submitted December 5, 2006, as a Proprietary Information Disclosure Statement in copending application 08/434,105, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

This application has not yet been examined fully on the merits (reply to a restriction requirement has been made). Applicants' original petition was submitted by facsimile transmission and contains a list of documents which are proprietary. However the documents have not been submitted **in this application** and cannot be expunged from this application. Since proprietary information disclosure statements and papers are confidential, they may only be viewed by the examiner in charge of the application in which they are submitted. It is noted that this application is assigned to an examiner different from SN 08/434,105. Further, upon allowance of the copending application (or abandonment) the proprietary information would be returned to applicants and not be available for consideration in the instant application. In view of this, it is considered that no proprietary information disclosure statement or materials have been submitted in this application and the petition is therefore dismissed.

The petition is again **DISMISSED**.

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 above address, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number, 571-273-8300.

Christopher Low
Director (acting) TC 1600
Bruce M. Kisliuk
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/102,469	03/19/2002	David A. Fischhoff	38-21 (13553)B	3478

27161 7590 06/04/2007

MONSANTO COMPANY
800 N. LINDBERGH BLVD.
ATTENTION: GAIL P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS, MO 63167

EXAMINER	
KAM, CHIH MIN	

ART UNIT	PAPER NUMBER
1656	

MAIL DATE	DELIVERY MODE
06/04/2007	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

MAY 29 2007

MAY 29 2007

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MONSANTO COMPANY
800 N. LINDBERGH BLVD.
ATTENTION: GAIL P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS MO 63167

In re Application of	:
David a. Fischhoff et al	:
Serial No.: 10/102,469	: PETITION DECISION
Filed: March 19, 2002	:
Attorney Docket No.: 28079/41786	:

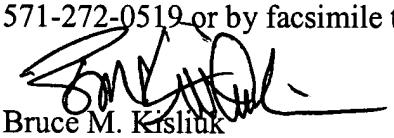
This is a response to the renewed petition under 37 CFR 1.59(b), filed April 30, 2007, to expunge information from the above identified application.

Petitioner requests that documents purportedly submitted December 5, 2006, as a Proprietary Information Disclosure Statement in copending application 08/434,105, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

This application has not yet been examined fully on the merits (reply to a restriction requirement has been made). Applicants' original petition was submitted by facsimile transmission and contains a list of documents which are proprietary. However the documents have not been submitted **in this application** and cannot be expunged from this application. Since proprietary information disclosure statements and papers are confidential, they may only be viewed by the examiner in charge of the application in which they are submitted. It is noted that this application is assigned to an examiner different from SN 08/434,105. Further, upon allowance of the copending application (or abandonment) the proprietary information would be returned to applicants and not be available for consideration in the instant application. (Similarly, a petition in this application cannot be used to expunge proprietary materials from another application.) In view of this, it is considered that no proprietary information disclosure statement or materials have been submitted in this application and the petition is therefore dismissed.

The petition is again **DISMISSED**.

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 above address, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number, 571-273-8300.



Bruce M. Kisliuk
Director, Technology Center 1600

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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.
10/102,469	03/19/2002	David A. Fischhoff	28079/41786	3478

7590 02/27/2009

David A. Gass
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, IL 60606-6357

EXAMINER	
KAM, CHIH MIN	

ART UNIT	PAPER NUMBER
1656	

MAIL DATE	DELIVERY MODE
02/27/2009	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
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David A. Gass
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago IL 60606-6357

In re Application of :
Fischhoff et al. : PETITION DECISION
Serial No.: 10/102,469
Filed: March 19, 2002
Attorney Docket No.: **28079/41786**

This is in response to the renewed petition under 37 CFR § 1.59(b), filed February 24, 2009, to expunge information from the above identified application. This application has been allowed.

Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. Specifically, Petitioner indicates that on December 13, 2006 and April 30, 2007, applicants filed petitions to expunge certain documents from the public file for this matter on the ground that the documents were subject to at least one protective order from at least one district court in connection with a group of litigations. These petitions were dismissed on January 26 and May 29, 2007, without prejudice.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the references is now appropriate. The documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

The petition is **GRANTED**.

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.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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WILLOW GROVE PA 19090

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APR 2 9 2005

OFFICE OF PETITIONS

In re Application of :
Alexander Kastalsky et al :
Application No. 10/102,472 : ON PETITION
Filed: March 20, 2002 :
Attorney Docket No. COPY-59 :

This is a decision on the petition, filed April 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 19, 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 2815 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

Paper No. _____

Date : April 29, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Alexander Kastalsky et al
Application No. :10/102,472
Filed :March 20, 2002

The above-identified application has been assigned Patent No. 6,888,295 and an issue date of May 3, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 3, 2005:

"All reference to Patent No. 6,888,295 to Alexander Kastalsky et al of New Jersey for PIXEL STRUCTURE FOR AN EDGE-EMITTER FIELD-EMISSION DISPLAY appearing in the Official Gazette of May 3, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03, (FAX-273-5468
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038)
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 2-7-07

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 6956695 B2 (10/102500

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.

Should these claims be enter?

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 Art Unit

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 2-7-07

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 6956695 B2 (10/102500

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.

Should these claims be enter?

Thank You For Your Assistance

E. S. James
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:

Approved for entry as directed to matters of form not affecting the scope of the invention.

SPE

2872
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark

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10/102500

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

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	U.S. Patent No. 6,956,695 B2
Filing Date	Issue Date: October 18, 2005
First Named Inventor	TRIANTAFYLLOS TAFAS
Art Unit	
Examiner Name	
Attorney Docket Number	IK-116(US)

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
- ☐ Fee Attached
- ☐ Amendment/Reply
- ☐ After Final
- ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
- ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
- ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☑ Other Enclosure(s) (please Identify below):

Remarks

1. PTO/SB/44 - Certificate of Correction
2. Return Receipt Postcard

Certificate of Correction
JAN 10 2007

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	KELLEY DRYE & WARREN LLP		
Signature			
Printed name	HANS-PETER G. HOFFMANN		
Date	JANUARY 4, 2007	Reg. No.	37,352

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	HANS-PETER G. HOFFMANN, Reg. No. 37,352	Date	JANUARY 4, 2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and1.14. This collection is estimated to 2 hours 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.

JAN 12 2007

PTO/SB/44 (04-05)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,956,695 B2

APPLICATION NO.: 10/102,500

ISSUE DATE : October 18, 2005

INVENTOR(S) : Triantafyllos Tafas; Petros Tsipouras

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

Column 8,
Claim 4. Delete the words, "microscope slide" and insert the word, "system."

Column 8,
Claim 5. Delete the words, "microscope slide" and insert the word, "system."

Column 8,
Claim 6. Delete the words, "microscope slide" and insert the word, "system."

Column 8,
Claim 7. Delete the words, "microscope slide" and insert the word, "system."

Column 8,
Claim 8. Delete the words, "microscope slide" and insert the words, "sample holder."

Column 8,
Claim 10. Delete the word "holder."

Column 8,
Claim 11. Delete the word "holder."

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Kelley Drye & Warren LLP
400 Atlantic Street
Stamford, CT 06901-3229

Attention: Hans-Peter G. Hoffmann, Ph.D.

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

JAN 12 2006

Claims for 6956695

surface having a focal point in the plane (defined by the excitation light ray) of the sample. This has the advantage of being able to focus both the direct and reflected emission light on the same focal plane.

In another embodiment of the present invention, more than one kind of fluorescent tag may be used to image different biological structures of the sample. A mixture of different kinds of fluorescent tag molecules is used to prepare the sample. Each kind of fluorescent tag attaches to different biological structures. The light emitted by the fluorescent tags may have a different frequency and the excitation light required to cause the tags to fluoresce may have a different frequency depending on the kind of fluorescent tag. Each tag may require its own set of excitation and emission filters selected for the excitation and emission light frequencies of the specific tag. The sample holder reflector is chosen to transmit or absorb all the excitation frequencies of the fluorescent tags while reflecting all the emission frequencies of the fluorescent tags.

The invention described herein is not to be limited in scope by the preferred embodiments herein described, since these embodiments are intended as illustrations of several aspects of the invention. Any equivalent embodiments are intended to be within the scope of this invention. Indeed, various modifications of the invention in addition to those shown and described herein will become apparent to those skilled in the art from the foregoing description. For example, instead of transmitting the excitation light, the sample reflector may absorb the excitation light. Another example includes the use of a laser as the excitation light source. Since the laser produces essentially monochromatic light, using a laser as the excitation light source eliminates the need for an excitation filter. Such modifications are also intended to fall within the scope of the invention.

We claim:

1. A system for increasing the contrast of a fluorescently tagged biological sample comprising a sample holder for supporting a sample tagged with different fluorescent tags for epifluorescence microscopy, the sample emitting an emission light when illuminated by an excitation light, the sample holder comprising:

a sample support comprising a sample-proximal infrared reflecting film, wherein the infrared reflecting film at least partially reflects an infrared focusung light beam at or near a sample focal point or focal plane; and

a base supporting a reflector comprising a dichroic reflector surface located beneath the sample support,

wherein the dichroic reflector reflects the emission light emitted by the sample while transmitting the excitation light illuminating the sample, wherein the sample comprises different fluorescent tags selected for interacting with excitation light applied at a specific frequency to produce a specific frequency emission light, the specific frequency emission light being reflected by the dichroic surface of the reflector being suitable for reflecting said specific frequency light emitted from the fluorescent tags.

2. The system of claim 1 wherein the dichroic reflector is concave having a focal point disposed within the sample.

3. The system of claim 1 wherein the sample support for supporting a sample comprises:

a top surface; and

a bottom surface;

an infrared reflecting film deposited on the top surface, the film directly supporting the sample; and

a dichroic reflecting film deposited on either the top surface, adjacent to, or in contact with, the sample, or the bottom surface, beneath the sample.

4. The ~~microscope slide~~ system of claim 3 wherein the infrared reflecting film comprises titanium.

5. The ~~microscope slide~~ system of claim 3 wherein the infrared reflecting film has a thickness of 0.6 nm to 90 nm.

6. The ~~microscope slide~~ system of claim 3 wherein the infrared reflecting film reflects between 4 to 8% of an incident infrared beam.

7. The ~~microscope slide~~ system of claim 6 wherein the infrared reflecting film reflects between 5.5 to 7% of the incident infrared beam.

8. The system of claim 1, wherein the ~~microscope slide~~ sample holder comprises the dichroic reflecting film that reflects an emission light emitted by the sample when illuminated by an excitation light, and that absorbs the excitation light.

9. The system of claim 1 wherein the base is a microscope slide.

10. The system ~~holder~~ of claim 1 wherein the sample comprises more than one kind of fluorescent tag for imaging different sample target, each target requiring a different dichroic surface and excitation frequency.

11. The system ~~holder~~ of claim 1 wherein the one dichroic reflector is selected as capable to transmit or absorb all the different emission frequencies of the fluorescent tags in the sample while reflecting all the emission frequencies of the fluorescent tags.

12. The system of claim 1 wherein the dichroic reflector may be utilized for the same sample containing different fluorescent tags.

* * * * *

OK
AU
2/13/07

UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS INCORPORATED
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DALLAS TX 75265

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JUL 2 5 2002

OFFICE OF PETITIONS

In re Application of :
Chaitali Sengupta et al :
Application No. 10/102,503 : ON PETITION
Filed: March 19, 2002 :
Attorney Docket No. TI-32184 :

This is a decision on the petition filed June 24, 2002, to accord the above-identified application a filing date of March 19, 2002.

The application was filed on March 19, 2002. However, on April 25, 2002, Initial Patent Examination Division mailed a Notice informing petitioner that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the drawings.

As this application contained, on filing, at least one method claim, which normally does not require a drawing, and as this application lacked any drawings on filing, it is USPTO policy, per MPEP 601.01(f), to treat such an application under the procedure set forth in MPEP 601.01(g). Under that procedure, rather than mailing a Notice of Missing parts indicating that the lack of drawings precluded the grant of a filing date, the USPTO should have accorded the application papers a filing date of March 19, 2002, and sent a Notice of Omitted Items. Accordingly, the Notice mailed April 25, 2002 was mailed in error and is vacated.

In response to the Notice of April 25, 2002, the present petition was filed alleging that four (4) sheets of informal drawings containing Figures 1-5 were filed on March 19, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "informal drawings (4 sheets)" on March 19, 2002.[1]

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

Upon review of the record, four (4) sheets of informal drawings (Figures 1-5), deposited on March 19, 2002 have not been located among the application papers. However, the evidence is convincing that the application papers deposited on March 19, 2002, included four (4) sheets of informal drawings, which were subsequently misplaced in the United Stated Patent and Trademark Office. Therefore, the application, including four (4) sheets of informal drawings (Figures 1-5), was complete on filing and entitled to a filing date of March 19, 2002.

In view of the above, the petition is **granted**.

The copy of the four (4) sheets of informal drawings containing Figures 1-5, submitted with the petition will be used for examination purposes.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of March 19, 2002, and for an indication that four (4) sheets of informal drawings were present on filing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 19 2007

OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of :
Sengupta, et al. : DECISION ON PETITION
Application No. 10/102,503 :
Filed: March 19, 2002 :
Docket No.: TI-32184 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 3, 2006 for failure to timely reply to the non-final Office action mailed June 2, 2006. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 2600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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OFFICE OF PETITIONS

In re Application of :
Sengupta, et al. :
Application No. 10/102,503 : DECISION ON PETITION
Filed: March 19, 2002 :
Attorney Docket No. TI-32184 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 14, 2007 for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed July 13, 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). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed January 31, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the required petition; 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.

The correspondence address indicated on the petition differs from that contained in the official record. The instant decision is being dually mailed. Practitioner is advised that all future correspondence concerning this application will be directed to the address contained in the record until such time as appropriate instruction is received to the contrary.

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

This application is being referred to Technology Center AU 2616 to await the filing of an appeal brief or for such other action as may be deemed appropriate by the examiner of record.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Robert N. Roundtree, LLC
70360 Highway 69
Cotopaxi, CO 81223

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UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

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MAR 2 7 2003

Technology Center 2100

Paper No. 3

Marc A. Sockol
SQUIRE, SANDERS & DEMPSEY, L.L.P.
600 Hansen Way
Palo Alto, CA 94304-1043

In re Application of:
John Man Kwong Kwan
Application No. 10/102,507
Filed: March 19, 2002
For: SYSTEM AND METHOD FOR AUTHENTICATING DATA USING INCOMPATIBLE DIGEST FUNCTIONS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed March 11, 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 March 11, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

JM

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

cc: Mr. Gregory Smith
GREGORY SMITH & ASSOCIATES
3900 Newpark Mall Road, Suite 317
Newark, CA 94560

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 042205

JUN 28 2005

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA, CA 91105

In re Application of:
ELLIOT BURKE et al.
Serial No.: 10/102,511
Filed: March 19, 2002
Attorney Docket No.: **48093/SAH/A788**

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 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

2883
IFW

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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. 042205

JUN 2 8 2005

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA, CA 91105

In re Application of:
ELLIOT BURKE et al.
Serial No.: 10/102,511
Filed: March 19, 2002
Attorney Docket No.: **48093/SAH/A788**

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 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

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OIPE/IAP
JUL 1 1 2005

cc: NANOGEAR, INC.
3337 KIFER ROAD
SANTA CLARA, CA 95051

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William B. Ritchie
43 Jackson Street
Concord NH 03301

MAIL

Paper No. 5

DEC 16 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Application No. 10/102,520

Filed: 3/20/02

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed 10/31/03
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 future correspondence will be directed to the below address until such a time as a request for change of address is filed. This address has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: Julius Perl, Vice President
Exatel Visual Systems, Inc.
111 South Bedford Street
Burlington, MA 01803

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DEC 02 2004

Bruce D. George
Woodstock Washburn LLP
One Liberty Place 46th Floor
Philadelphia, PA 19103

Paper No. 16

In re Application of
D. Greg Anderson
Serial No. : 10/102,525
Filed : March 19, 2002
For : Percutaneous Technique and Implant for Expanding the Spinal Canal

: DECISION ON PETITION
: TO WITHDRAW
: HOLDING OF
: ABANDONMENT

This is a decision on a request filed September 24, 2004 to review the holding of abandonment mailed September 3, 2004 for failure to file a proper response to the Office action mailed November 21, 2003. There is no fee required for this petition. The petition fee of $130.00 will be refunded under separate cover.

In support of the request and as required by 37 CFR 1.10(e), petitioner has submitted a copy of a communication that included: (1) a Request for Continued Prosecution (RCE); (2) an Information Disclosure Statement (IDS); (3) a check in the amount of $880.00 (which check has been deposited by the Office); (4) a return post card receipt (as yet not received by applicant); (5) a copy of the After-Final Response and Amendment filed January 21, 2004 (referred to in the Request for Continued Examination); and (6) Express Mail Label No. EL969189172US showing a "date-in" of March 23, 2004. In addition, petitioner has submitted a copy of a confirmation of delivery of Express Mail Label No. EL969189172US to the United States Patent and Trademark Office on March 24, 2004 as evidence that the communication in question was timely filed, and a statement satisfying the requirements of 37 CFR 1.10(e)(4) averring that the submitted copies of the aforementioned documents are true copies of the originals and that the date of deposit was indeed March 23, 2004. Each paper constituting the communication in question includes the aforementioned number of the "Express Mail" mailing label.

In view of the above, the Notice of Abandonment mailed September 3, 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, processing, and consideration of the RCE filed March 23, 2004.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (571) 272-2975
ak/11/30/04

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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

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Arif Kureshy	: DECISION ON REQUEST FOR
Patent Number	: 7584241	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/102,560	: 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 **906** 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

Technology Center 1700.

JUL 27 2004

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Paper Number:_____

In re application of :
Horst Berneth et al. : DECISION ON
Serial No. 10/102,577 : PETITION
Filed: March 20, 2002 :
For: OPTICAL DATA STORAGE MEDIUM CONTAINING A HETEROCYCLIC AZO DYE AS THE LIGHT-ABSORBING COMPOUND IN THE INFORMATION LAYER :

This is a response to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT-OFFICE ACTION NOT RECEIVED", filed May 13, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of January 12, 2004, for failure to timely file a proper response to the Office letter dated June 23, 2003 be withdrawn. The petitioner asserts that applicants timely filed a proper response to the Office letter of June 23, 2003 on November 24, 2003(Note: November 23, 2003 fell on Sunday and November 24, 2003 is the next business day.).

DECISION

The instant request is accepted as a petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did file the proper response to the Office letter of June 23, 2003 in a timely manner. The evidence provided includes : 1) a copy of the Response and Petition for a two-month Extension of Time with an executed Certificate of Mailing dated November 24, 2004; 2) a copy of the returned stamped postcard confirming receipt of the Response, Petition for Extension of Time and the Fee of two-month extension of time in the amount of $420.00 by the USPTO dated November 26, 2003; and 3) a copy of the attorney's Deposit Account Statement showing the withdrawal of $420.00 for the Petition for Extension of Time.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The case will be forwarded to the Technical Support Staff for entering of the Response of November 24, 2003 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BAYER CHEMICALS CORPORATION
PATENT DEPARTMENT
100 BAYER ROAD
PITTSBURGH,PA 15205-9741

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Wen Liu
LIU & LIU LLP
Suite 1100
811 West 7th Street
Los Angeles CA 90017

Paper No. 4

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JUL 1 8 2002

OFFICE OF PETITIONS

In re Application of
Bhat, et al.
Application No. 10/102,601
Filed: March 19, 2002
Attorney Docket No. 1017/240
For: SYSTEM AND METHOD FOR OPTIMIZING OPTICAL COUPLING IN A CROSS-CONNECT SWITCH

DECISION DISMISSING PETITION

This is a decision on the petition filed June 3, 2002 (certificate of mailing date May 21, 2002), requesting that the above-identified application be accorded a filing date of March 18, 2002, rather than the presently accorded filing date of March 19, 2002.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on March 18, 2002, pursuant to the requirements of 37 CFR 1.10. Petitioners acknowledge that the date of deposit in Express Mail shown on petitioners' Express Mail receipt is March 19, 2002, but argue that the application was actually entrusted to a postal clerk on March 18, 2002 on or about 11:55 pm

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

(Emphasis supplied). Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be

corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed June 3, 2002 (certificate of mailing date May 21, 2002), is not accompanied by the corroborating evidence required by the rule. The recollections of Wen Liu, as stated in the petition, were made months after the event in question. Thus, they are not recognized as corroborating evidence of a March 18, 2002 deposit.

Accordingly, the petition is dismissed.

Acceptable corroborating evidence would be either a statement from the postal clerk who accepted the package on March 18, 2002 or contemporaneous business records, such as a mail log at the firm, e-mails, or other letters, that show that the package was in the possession of the USPS employee on March 18, 2002. The business records must have been created within one business day of the deposit. Petitioners could submit a statement from the postal clerk who accepted Express Mail package no. EL715298505US on March 18, 2002, attesting to the fact that she was in possession of the package on March 18, 2002.

A petition under 37 CFR 1.10(d) is a feeless petition. Thus, the $130.00 petition fee will be credited to deposit account no. 50-1288.

The application is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of March 19, 2002.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Wen Liu
LIU & LIU LLP
Suite 1100
811 West 7th Street
Los Angeles CA 90017

Paper No. 4

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JUL 1 8 2002

OFFICE OF PETITIONS

In re Application of
Boger, et al.
Application No. 10/102,602
Filed: March 19, 2002
Attorney Docket No. 1017/239
For: OPTICAL CROSS-CONNECT ASSEMBLY

DECISION DISMISSING PETITION

This is a decision on the petition filed June 3, 2002 (certificate of mailing date May 21, 2002), requesting that the above-identified application be accorded a filing date of March 18, 2002, rather than the presently accorded filing date of March 19, 2002.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on March 18, 2002, pursuant to the requirements of 37 CFR 1.10. Petitioners acknowledge that the date of deposit in Express Mail shown on petitioners' Express Mail receipt is March 19, 2002, but argue that the application was actually entrusted to a postal clerk on March 18, 2002 on or about 11:55 pm

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

(Emphasis supplied). Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be

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corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed June 3, 2002 (certificate of mailing date May 21, 2002), is not accompanied by the corroborating evidence required by the rule. The recollections of Wen Liu, as stated in the petition, were made months after the event in question. Thus, they are not recognized as corroborating evidence of a March 18, 2002 deposit.

Accordingly, the petition is dismissed.

Acceptable corroborating evidence would be either a statement from the postal clerk who accepted the package on March 18, 2002 or contemporaneous business records, such as a mail log at the firm, e-mails, or other letters, that show that the package was in the possession of the USPS employee on March 18, 2002. The business records must have been created within one business day of the deposit. Petitioners could submit a statement from the postal clerk who accepted Express Mail package no. EL715298514US on March 18, 2002, attesting to the fact that she was in possession of the package on March 18, 2002.

A petition under 37 CFR 1.10(d) is a feeless petition. Thus, the $130.00 petition fee will be credited to deposit account no. 50-1288.

The application is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of March 19, 2002.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 14

FOLEY & LARDNER
150 EAST GILMAN STREET
PO BOX 1497
MADISON, WI 53701-1497

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MAR 2 5 2004

OFFICE OF PETITIONS

In re Application of
McCaughan et al.
Application No. 10/102,621
Filed: March 19, 2002
Attorney Docket No. 032026:0627

ON PETITION

This decision concerns the March 15, 2004 petition under 37 CFR 1.137(b) to revive the above-referenced application. The petition asserts timely response to a USPTO correspondence and is being properly treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in this application.

The petition is **GRANTED.**

On April 12, 2002, a "Notice to File Missing Parts ofiNonprovisional Application" was mailed, stating that the application as filed was missing the application basic filing fee, the extra claims fee, and a properly signed oath or declaration. Applicants were given an extendable 2-month non-statutory period for submitting the missing items.

The missing items were not shown filed on or before November 12, 2002, and no extension of time under 37 CFR 1.136(a) was obtained. The application was held abandoned on June 13, 2002.

The instant petition asserts that the missing items were indeed timely mailed on May 29, 2002. In support, the petition is accompanied by a copy of "Transmittal of Missing Parts of Application under 37 CFR 1.53" which, similar to a return postcard, lists and itemizes the papers being mailed with the transmittal letter: an executed Declaration and Power of Attorney; a $444 check for paying the basic filing fee ($370; small entity) and the surcharge for late filing of the basic filing fee and a proper oath/declaration ($65; small entity), totaling $435. This transmittal letter bears a Certificate of Mailing, dated May 29, 2002.[1]

The petition also encloses copies of the Declaration and Power of Attorney and the $444 check, both purportedly mailed on May 29, 2002.

---

[1] Under 37 CFR 1.8(a)(1), correspondence is considered timely filed if: (i) it is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the USPTO as set out in 37 CFR 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the USPTO in accordance with 37 CFR 1.6(d); and (ii) it includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The USPTO file for this application does not contain a signed Declaration and Power of Attorney. Nor are the fees ($370 and $65) shown posted to the account for this application.

In view of the above, the Office concludes that the papers mailed on May 29, 2002, including the $444 check, were lost or never received by the USPTO. The petition is thus granted.

No petition fee is owed. The $665 petition fee enclosed with the petition has been credited to Deposit Account No. 50-2350 as authorized.

As also authorized, the $370 application basic filing fee (small entity) and the $65 surcharge for late filing of the declaration (small entity) have been charged to the same deposit account, with the "mailroom date" of May 29, 2002.

The February 18, 2004 Notice of Abandonment is hereby vacated.

The application is now complete.

The file is being forwarded to Technology Center 2800 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

FOLEY & LARDNER
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

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JUL 26 2005

OFFICE OF PETITIONS

In re Application of	:	
McCaughan et al.	:	DECISION ON APPLICATION FOR
Application No. 10/102,621	:	PATENT TERM ADJUSTMENT
Filed: March 19, 2002	:	
Atty Docket No. 032026:0627	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 35 U.S.C. § 154(B)(3)(B)(II)," filed January 31, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to five hundred sixty-four (564) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **five hundred sixty-four (564)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 3, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On January 31, 2005, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 622 days attributed to applicants for failing to

[1] PALM records indicate that the Issue Fee payment was also received on January 31, 2005.

respond within three months to the Notice to File Missing Parts of Application mailed April 12, 2002.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history reveals that no response to the Notice to File Missing Parts of Application mailed April 12, 2002 was considered timely filed by the Office and the application became abandoned. Applicants were advised of the abandonment by notice mailed February 18, 2004. In response, on March 15, 2004, applicants filed a petition to withdraw the holding of abandonment. By decision mailed March 25, 2004, the petition was granted on the basis that applicants had shown that a response was filed on May 29, 2002. Furthermore, this response has been treated as a complete reply to the Notice.

In view thereof, it is concluded that applicants did not fail to engage in reasonable efforts to conclude processing or examination of the application by delaying in replying to the Notice to File Missing Parts of Application. The Notice was mailed April 12, 2002, and the evidence established that applicants filed a response on May 29, 2002. The response was filed within the three-month period under 37 CFR 1.704(b) and accordingly, applicants' delay should have been assessed as zero (0) days.

It is noted that a petition to revive was filed on March 25, 2004, within two months of the mailing of the notice of abandonment on February 18, 2004.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is five hundred sixty-four (564) days.

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

The application is being forwarded to the Office of Patent Publication so that a patent can be issued.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

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

Enclosure: Copy of Revised PAIR Screen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-22-06

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/102262 Patent No.: 6951120

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**.

Please check 2nd Request

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Please expedite

Nikita Wells 08/28/07

NIKITA WELLS
~~PRIMARY EXAMINER~~

~~SPE~~

2881
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: x
DATED: August 20, 2007
INVENTOR(S):

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

Wells, Nikita

From: Young, Ennis
Sent: Monday, August 20, 2007 11:41 AM
To: Wells, Nikita
Subject: 10/102621- 6951120

Please respond to the PTOL-306 (IMIS) document, in the applicaion images for the above-identified applicaion in eDan/MADRAS dated 3-06.

This file is an 2nd request,awaiting for response.

Please forward response, after scanning in document cocx.

Thanks for your attention in this matter.

Enis young
Cofc branch
South tower, 9a22
Location 7580
703-308-9390 ext.117

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.
10/102,663	03/22/2002	Christopher Zee		8143

90605 7590 04/16/2010

Zee, Christopher
6948 Leaside Drive, SW
Calgary, AB T3E 6H5
CANADA

EXAMINER	
LU, KUEN S	

ART UNIT	PAPER NUMBER
2156	

MAIL DATE	DELIVERY MODE
04/16/2010	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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Christopher Zee
6948 Leaside Drive, SW
Calgary, AB T3E 6H5
Canada

In re Application of:
Christopher ZEE
Application No. 10/102,663
Filed: March 22, 2002
For: ASSURED ARCHIVAL AND RETRIEVAL SYSTEM FOR DIGITAL INTELLECTUAL PROPERTY

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition, filed 18 June 2009 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Final rejection mailed 13 February 2009.

The petition is **DISMISSED AS MOOT**.

A review of the application file record indicates that a Request for Continued Examination (RCE) with the required fee was filed on 18 June 2009 and was processed and accepted.

37 C.F.R. § 1.114(d) states, in part:

> If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination ...

Pursuant to 37 C.F.R. § 1.114(d), the amendment filed 18 June 2009 was entered and forwarded to the examiner to consider and issue an appropriate Office communication.

Accordingly, the petition is **DISMISSED AS MOOT.**

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture and Software

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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WESTERN HATTORI DANIELS & ADRIAN LLP
1250 CONNECTICUT AVENUE NW
SUITE 700
WASHIJNTON DC 20036

MAILED

JUN 8 - 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
MORIAKI SUGIMOTO
Application No. 10/102,673
Filed: March 22, 2002
For: PRINT CONTROL SYSTEM AND MEDIUM

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on April 07, 2005.

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

All attorneys/agents associated with Customer Number 23850 have withdrawn.

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

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

cc: ARMSTRONG WESTERNMAN HATTORI MCLELAND & NAUGHTON
1725 K STREET NW
SUITE 1000
WASHINGTON DC 20006

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United States Patent and Trademark Office
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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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JAN 30 2008

OFFICE OF PETITIONS

In re Application of :
Boyle, et al. :
Application No. 10/102,702 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 07-837 :
For: LASER MACHINING SYSTEM AND METHOD

This is a decision on the petition under 37 CFR 1.137(b), filed on November 16, 2007, to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed August 18, 2005, which set an extendable three month period for reply. No extensions of time or reply being received in the Office, this application became abandoned on November 19, 2005. A Notice of Abandonment was mailed on March 8, 2006.

Applicants have submitted a RCE and $810.00 fee and amendment in reply to the August 18, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the August 18, 2005 final Office action, and the $1,540.00 petition fee.

The petition is **GRANTED**.

The power of attorney/change of correspondence address filed on November 16, 2007 has been accepted and made of record. Please find enclosed a NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY.

After the mailing of this decision the application will be forwarded to Technology Center G.A.U. 1792 for consideration of the RCE and amendment filed on November 16, 2007.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/102,702	03/22/2002	Adrian Boyle	P67752US0

CONFIRMATION NO. 1006

20306
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

POA ACCEPTANCE LETTER

OC00000027877601

Date Mailed: 01/30/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/16/2007.

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

/swbrantley/

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/102,702	03/22/2002	Adrian Boyle	P67752US0

CONFIRMATION NO. 1006

POWER OF ATTORNEY NOTICE

27717
SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Date Mailed: 01/30/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/16/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/swbrantley/

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

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Application of :
Boyle, et al. :
Application No. 10/102,702 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 07-837 :
For: LASER MACHINING SYSTEM AND METHOD

This is a supplement to the decision on the petition, mailed January 30, 2008, which addressed the petition under 37 CFR 1.137(b), filed on November 16, 2007, to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed August 18, 2005, which set an extendable three month period for reply. No extensions of time or reply being received in the Office, this application became abandoned on November 19, 2005. A Notice of Abandonment was mailed on March 8, 2006.

Applicants have submitted a RCE and $810.00 fee and amendment in reply to the August 18, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the August 18, 2005 final Office action, and the $1,540.00 petition fee.

Regarding the statement of delay: Petitioners filed a statement by Patrick G. Gattari, a newly empowered attorney of record, detailing his efforts to ascertain the nature of the delay in filing a response to the August 18, 2005 final Office action. Mr. Gattari was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, his 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).

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 lengthy 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. Practitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center G.A.U. 1792 for consideration of the RCE and amendment filed on November 16, 2007.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 11 2005

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JAN 11 2005

OFFICE OF THE DIRECTOR
TC 3600

Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, NW
Washington, DC 20037

In re application of
Thomas Melone, et al.
Application No. 10/102,725
Filed: March 22, 2002
For: STRUCTURED LEASING METHOD AND SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on November 9, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

The petition fails to adequately meet requirement (B) above. In this regard, item (B) is not met because the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required.

For the above stated reason, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/rwg: 12/16/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV - 9 2005

Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, NW
Washington, DC 20037

In re application of : **DECISION ON PETITION**
Thomas Melone et al. : **TO MAKE SPECIAL**
Application No. 10/102,725 : **(ACCELERATED**
Filed: March 22, 2002 : **EXAMINATION)**
For: STRUCTURED LEASING METHOD AND SYSTEM

This is in response to the renewed petition filed on September 23, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 10/26/05

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

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JAN 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Malone, et al.	:	DECISION
Application No.: 10/102,725	:	
Filed: March 22, 2002	:	
Docket No.: A3880.0013/P013	:	

This decision is in response to the "PETITION TO MAKE APPLICATION FOR PATENT BY THOMAS MALONE AS AGENT FOR CO-INVENTORS WHO REFUSE TO SIGN," filed December 5, 2006. This matter is being properly treated under 37 CFR 1.183 as a petition to waive the requirements of 37 CFR 1.67.

The petition is hereby **DISMISSED**.

This petition is not subject to the provisions of 37 CFR 1.47 as once an executed oath or declaration has been filed and been placed in the application for examination, the provisions of 37 CFR 1.47 no longer apply. Rather the remedy for treating an inventor's refusal or unavailability to sign a supplemental declaration is a waiver of 37 CFR 1.67. *See* MPEP 603. Nonetheless, it is appropriate to apply the principles of 37 CFR 1.47 in evaluating the merits of the instant petition. *See* MPEP 409.03(a).

A petition under 37 CFR 1.183 is currently $400.00. The instant petition was accompanied by a fee in the amount of $130.00 without authority to charge additional fees to petitioners' deposit account.

In view thereof, the instant petition, having not been reviewed on the merits, is subject to dismissal without prejudice.

Any renewed petition must be accompanied by the required petition fee.

Petitioner is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the deficiencies noted herein. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183," and should only address the

deficiencies noted herein. Except, the reply may include a supplemental oath or declaration executed by the inventor.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Service Window Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries regarding 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 21 2007

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

In re Application of :
Melone, et al. : DECISION
Application No.: 10/102,725 :
Filed: March 22, 2002 :
Docket No.: A3880.0013/P013 :

This decision is in response to the "RENEWED PETITION TO MAKE APPLICATION FOR PATENT BY THOMAS MALONE AS AGENT FOR CO-INVENTORS WHO REFUSE TO SIGN," filed March 9, 2007. This matter is being properly treated under 37 CFR 1.183 as a petition to waive the requirements of 37 CFR 1.67.

In response to the Office action mailed December 1, 2006, petitioners have submitted the instant request for acceptance of a supplemental declaration under 37 CFR 1.67 signed by less than all of the inventors named in the instant application.

37 CFR 1.67(a)(1) states:

> "Deficiencies or inaccuracies relating to all the inventors or applicants (§§ 1.42, 1.43, or § 1.47) may be corrected with a supplemental oath or declaration signed by all the inventors or applicants."

Petitioners allege that Inventors Yanowitz and Wilson refuse to execute the supplemental declaration.

In accordance with MPEP 603, "[w]hen an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP §409.03(a)."

A grantable petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.67 requires petitioners to establish that this is an

extraordinary situation where justice requires waiver of the rules.

Petitioners herein have set forth the steps taken to obtain the signatures of Inventors Yanowitz and Wilson on the § 1.67 declaration. Furthermore, petitioners have shown that *bona fide* effort has been made to present the § 1.67 declaration and supporting documentation to said inventors. Effort to procure their signatures on the supplemental declaration, however, was met with written refusals. Under the circumstances, it is concluded that petitioners have demonstrated that this extraordinary situation warrants waiver of the rules.

In view of the circumstances outlined in the instant petition, the 37 CFR 1.67 declaration may be entered, despite the fact that the requirement that all of the inventors sign the supplemental declaration has not been satisfied.

Accordingly, the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.67(a)(1) is hereby **GRANTED**.

The application file is being forwarded to Technology Center 3600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 1/30/06 **Paper No.:**

TO : **Supervisor, Art Unit** _____

SUBJECT : Certificate of Correction Request in Patent No.: 6,825,635

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

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 COMPLETE THIS FORM AND RETURN WITH FILE, WITHIN 7 DAYS,
TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922
PALM LOCATION 7580 - TEL. NO. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

☐ **YES** ☒ **NO**

☒ **Comments: The request for a Certificate of Correction with respect to the Patent Term Extension/Adjustment being changed from 268 to 358 days is NOT approved.**
The examiner needs to see the other requested changes.

Mark Polutta
Office of Patent Legal Administration **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100701

DATE : July 2, 2010

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction on Patent No.: 6,896,686

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:

In view of the papers filed 01 June 2007, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR § 1.324. The inventorship of this application has been changed by adding an inventor, namely Stephen S. Burhart.

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

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

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JUN 1 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Mu et al.	:	
Application No. 10/102,748	:	DECISION DISMISSING
Filed: 22 March, 2002	:	PETITION
Atty Docket No. 22 March, 2002	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed on 24 November, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after 29 November, 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) 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

[1]Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference (i.e., in an 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).

> date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on 22 March, 2002, within twelve months of the filing date of the prior provisional application, Application No. 60/298,907, which was filed on 19 June, 2001, and for which priority is claimed. A reference to the prior provisional application has been included as an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after 22 March, 2002, 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).

The petition lacks item (2). In this respect, petitioners submitted a check for $1,300.00 with the present petition. However, on 24 November, 2003, the petition fee for the present petition was $1,330.00. Therefore, a fee deficiency of $30.00 is due. It is noted that petitioners have not authorized the USPTO to charge the deficiency to counsel's deposit account. Therefore the petition must be dismissed.

Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance; that is, at the time of requesting any action by the Office for which a fee or charge is payable.[2] Any renewed petition should be accompanied by the fee deficiency due.

Furthermore, it is noted that petitioner's amendment consists of Pages 1-11. It appears, however, that some pages of the amendment have been omitted, as the signature page is missing and the last paragraph ends in mid-sentence. Petitioners should supply a complete copy of the amendment with any renewed petition.

---

[2] See 37 CFR 1.22(a).

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

OR (for responses delivered on or after 5 June, 2004)

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

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

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A

[3] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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.

Telephone inquires should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Frances Hicks

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

cc: BACON & THOMAS, PLLC
625 SLATERS LANE, 4TH FLOOR
ALEXANDRIA VA 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080414

DATE : March 28, 2008

TO SPE OF : ART UNIT 1655

SUBJECT : Request for Certificate of Correction on Patent No.: 7226751

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

SPE: /Terry McKelvey/ Art Unit 1655

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004

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OFFICE OF PETITIONS

In re Application of :
Stephen P.A. Fodor et al :
Application No. 10/102,774 : DECISION ON PETITION
Filed: March 22, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 056297-5003-14 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 26, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant pending application was filed on March 22, 2002, and was pending at the time of filing of the instant petition. A reference to prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for 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 Wan Laymon at (517) 272-3220.

This matter is being referred to Technology Center Art Unit 1634 for appropriate action on the amendment filed August 26, 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.

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
www.uspto.gov

COOLEY GODWARD
THE BOWEN BUILDING
ATTN: THE PATENT GROUP
875 15TH STREET, N.W., SUITE 800
WASHINGTON, DC 20005-2221

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MAY 18 2006
OFFICE OF PETITIONS

In re Application of :
Stephen P.A. Fodor et al :
Application No. 10/102,774 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 056297-5003-14 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 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 November 15, 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 February 15, 2005 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed March 2, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on April 16, 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 a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of November 15, 2004 is accepted as having been unintentionally 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). Accordingly, since the $2,730 extension of time submitted on May 16, 2005 and January 26, 2006 were subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit accounts.

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

This matter is being referred to Technology Center AU 1634.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

Leffert Jay & Polglaze
P.O. Box 581009
Minneapolis, MN 55458-1009

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NOV 1 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Steven Vermeer	:	
Application No. 10/102,785	:	ON PETITION
Filed: March 21, 2002	:	
Attorney Docket No. 174.001US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 8, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight October 8, 2003.

In response, petitioner submitted with the instant petition $665 for the petition to revive fee, and an amendment.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 3747, for further 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

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)
6840903	2005-01-11	10102800	2002-03-21	NUVS-001/00US 300463-2002

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

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
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	/William J. Mazzei/	Date (YYYY-MM-DD)	2009-03-02
Name	William J. Mazzei		

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. 6840903
Issue Date: January 11,2005
Application No. 10102800
Filed: March 21,2002
Attorney Docket No. NUVS-001/00US 300463-2002

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

This is a decision on the electronic petition, filed March 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 2,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Hiroyuki Hieda et al	:	
Application No. 10/102,812	:	DECISION GRANTING PETITION
Filed: March 22, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 221152US2SRD	:	

This is a decision on the petition, filed April 5, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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 1773 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES 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.

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

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JUL 2 0 2005

OFFICE OF PETITIONS

In re Application :
Peter Boderke :
Application No. 10/102,862 : DECISION ON APPLICATION
Filed: March 22, 2002 : FOR PATENT TERM ADJUSTMENT
Atty Docket No. 02481.1785 :
:

This is a decision on the "REQUEST TO CORRECT PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed January 19, 2005. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred forty-nine (249) days to two hundred sixty-three (263) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred sixty-three **(263)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 19, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 249 days. The period of adjustment of 263 days for Office delay was reduced by 14 days for applicant delay. On January 19, 2005, applicant timely[1] submitted an application for patent term adjustment (with required fee). Applicant disputes the reduction of 14 days attributed to their delay in responding to the Notice to File Missing Parts of Application mailed April 23, 2002.

[1] PALM records indicate that the Issue Fee was also received in the Office on January 19, 2005.

Applicant states that the patent issuing from the application is not subject to a terminal disclaimer.

Applicant is correct. Their response to the Notice to File Missing Parts of Application mailed April 23, 2002, is of record in the application with a date of receipt by the Office of July 22, 2002. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have assessed applicants a delay of 14 days. The response was filed within the three-month period under 37 CFR 1.704(b). Applicant did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred sixty-three (263) days.

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

The Office will forward the file to the Office of Patent Publication so that a patent can be issued.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

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

Enclosure: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUN 21 2006

OFFICE OF PETITIONS

In re Patent No. 6,960,561
Peter Boderke
Issue Date: November 1, 2005
Application No. 10/102,862
Filed: March 22, 2002
Attorney Docket No. 02481.1785

: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the "Request to Correct Patent Term Adjustment under 37 CFR 1.705(b)" received in the Office January 3, 2006, which is properly considered under 37 CFR 1.705(d). Patentees request that the patent term adjustment indicated on the patent be corrected from three hundred nine (309) to four hundred twenty-nine (429) days.

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

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

Patentees argue that the reduction of 120 days for a request for Acknowledgment of Receipt of Priority Document was incorrect, that such a request does not fall within the types of papers submitted after allowance and directs attention to MPEP 2732 describing 37 CFR 1.704(c)(10).

A review of the file history reveals that the request for acknowledgment of priority papers was filed December 1, 2004, after the notice of allowance was mailed. Furthermore, the priority document was filed March 2, 2002 however with office actions mailed February 9, 2004 and May 4, 2004, that did not acknowledge priority, applicant would have had at least two opportunities to request acknowledgment before the mailing of the Notice of Allowance. Applicant did not request acknowledgment of the priority document until after the mailing of the Notice of Allowance, thus a reduction is proper for the filing of a request for acknowledgment of priority paper after the mailing of the notice of allowance. See 37 CFR 1.704(c)(10) *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001).

In view thereof, the patent term adjustment of three hundred nine (309) days indicated on the patent is correct.

Telephone inquiries specific to this matter should be directed to Patricia Faison-Ball, Senior Petitions Attorney, at (571) 272-3212.

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

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

COPY MAILED

SEP 27 2007

OFFICE OF PETITIONS

In re Patent No. 6,960,561
Peter Boderke
Issue Date: November 1, 2005
Application No. 10/102,862
Filed: March 22, 2002
Attorney Docket No. 02481.1785

:DECISION ON REQUEST FOR
:RECONSIDERATION OF
:PATENT TERM ADJUSTMENT

This is a decision on the "Request For Reconsideration: Dismissal of Petition Mailed June 21, 2006." under 37 CFR 1.705(d)" filed August 18, 2006. Patentees request that the patent term adjustment indicated on the patent be corrected from three hundred nine (309) to four hundred twenty-nine (429) days.

The request for reconsideration of the dismissal of petition is **DISMISSED**.

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

On December 1, 2004, after the mailing of the Notice of Allowance, petitioner filed a request for acknowledgment of priority papers. The Patent issued November 1, 2005 with a revised Patent Term Adjustment of 309 days. In a petition filed January 3, 2006, Patentees argued that the reduction of 120 days for the Request for Acknowledgment of Receipt of Priority Document was incorrect, that such a request does not fall within the types of papers submitted after allowance and directed attention to MPEP 2732 describing 37 CFR 1.704(c)(10). The petition was dismissed in a decision mailed June 21, 2006 because pursuant to 37 CFR 1.704(c)(10)[1] a reduction is proper for the filing of a request for acknowledgment of priority paper after the mailing of the notice of allowance and in view thereof, it was determined that the deduction of 120 was appropriate and that the patent term adjustment of three hundred nine (309) days indicated on the patent was correct.

Comes now petitioner with the instant request for reconsideration arguing that while the paper filed December 1, 2004 was entitled "Letter Requesting Acknowledgment of Receipt of Priority Document" it was merely a request to correct an omission in the

[1] *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001).

Notice of Allowance. Petitioners are advised that irrespective of the title of the request the substance of the request is controlling. As was indicated in the decision mailed June 21, 2006, the priority document was filed March 2, 2002, however with office actions mailed February 9, 2004 and May 4, 2004 that did not acknowledge priority, applicant would have had at least two opportunities to request acknowledgment before the mailing of the Notice of Allowance. Applicant did not request acknowledgment of the priority document until after the mailing of the Notice of Allowance, thus a reduction is proper for the filing of a request for acknowledgment of priority paper after the mailing of the notice of allowance.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

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
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Paper No.

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

COPY MAILED

SEP 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Okamoto et al.	:	LETTER REGARDING
Application No. 10/102,871	:	PATENT TERM ADJUSTMENT
Filed: March 22, 2002	:	
Atty Docket No. 070964-0112	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed February 4, 2005, pursuant to patentees' duty of good faith and candor to the Office. Patentees state that the 111 days of patent term adjustment indicated on the Issue Notification disagrees with their own calculation.

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

On February 8, 2005, the above-identified application matured into U.S. Patent No. 6,853,408, with a revised Patent Term Adjustment of 111 days. Patentees submit no basis for concluding that this calculation is in error.

A review of the application history supports a conclusion that the patent term adjustment of 111 days indicated in the Issue Notification (and on the patent) is correct. Pursuant to § 1.702(a)(1), the application is entitled to a patent term adjustment of 137 days for Office delay in mailing a first notice of allowance under 35 U.S.C. 151. The application was filed on March 22, 2002; however, the first Office action was not mailed until October 6, 2003, fourteen months and 137 days later. However, pursuant to § 1.704(c)(10), this adjustment was

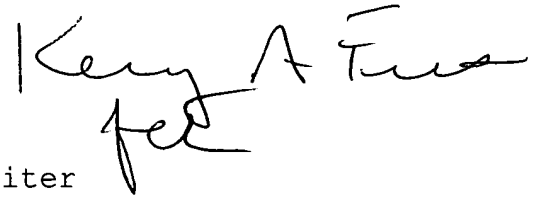
properly reduced by 26 days for patentees' submission of an Information Disclosure Statement after the mailing of the notice of allowance. The IDS was filed on October 28, 2004. The Office mailed a response on November 22, 2004, 26 days later.

In view thereof, the patent issued with the correct PTA of 111 days. There was no printing error.

As this letter was submitted as an attempt to advise the Office of an error in Patentee's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks patentee for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to Files Repository for storage as a patented case.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.



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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 20, 2005

TO SPE OF : ART UNIT 3765

SUBJECT : Request for Certificate of Correction on Patent No.: 6,918,412

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

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

Magdalene Talley

Thank You For Your Assistance

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

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

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

Comments:

JOHN J. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE

3765
Art Unit

OIPE IAP45 OCT 04 2005 PATENT & TRADEMARK OFFICE

C of C

P22130.A20

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors	: H. PINTZ et al.	**Certificate of Corrections Branch**
Patent No.	: 6,918,412 B2	Issued: July 19, 2005
Appl. No.	: 10/102,889	Filed: March 22, 2002
For	: GRID MAT	

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner For Patents
U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Certificate
OCT 07 2005
of Correction

Sir:

Please find attached a proposed Certificate of Correction.

Please correct the following error appearing in the printed patent, which is the fault of the U.S. Patent and Trademark Office, as per the attached Certificate of Correction. Since the error is the fault of the USPTO, no fee is due.

At column 8, line 45 (claim 31, line 1) of the printed patent, "claim 1" should be ---claim 14---. This appeared correctly on page 10, line 14 of the Amendment Under 37 C.F.R. 1.116 filed January 18, 2005.

Therefore, it is respectfully requested that a Certificate of Correction issue in the above-identified patent as follows:

OCT 11 2005

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,918,412 B2

APPLICATION NO.: 10/102,889

ISSUE DATE : July 19, 2005

INVENTOR(S) : H. PINTZ et al.

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

At column 8, line 45 (claim 31, line 1) of the printed patent, "claim 1" should be —claim 14—.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

OCT 11 2005

At column 8, line 45 (claim 31, line 1) of the printed patent, "claim 1" should be ---claim 14---.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed number.

Respectfully submitted,
H. PINTZ et al.

Neil F. Greenblum
Reg. No. 28,394

Robert W. Mueller
Reg. No. 35,043

October 4, 2005
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191

OCT 11 2005

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Paper No. 12

SPECKMAN LAW GROUP
1501 WESTERN AVENUE
SUITE 100
SEATTLE, WA 98101

COPY MAILED

OCT 27 2003

OFFICE OF PETITIONS

In re Application of
Moyer et al.
Application No. 10/102,907
Filed: March 22, 2002
Attorney Docket No. 13324.1001

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 10, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed December 30, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 31, 2003. A Notice of Abandonment was mailed on September 9, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 1600 for further examination on the merits.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

BethAnne Dayoan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, DC 20231
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Paper No. 3

MAILED

MAR 19 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Wilmer, Cutler & Pickering
2445 M Street, NW
Washington DC 20037

In re Application of :
Paul Heinerscheid et al :
Application No. 10/102,914 :
Filed: March 22, 2002 :
For: COMBINATION OF MULTIPLE REGIONAL BEAMS AND A WIDE-AREA BEAM PROVIDED BY A SATELLITE SYSTEM :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on February 27, 2003.

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

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

The petitioner, John W. Ryan, is removed from record. All other attorneys and agents remain active.

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: John Morrish
Global Radio, S. A.
33 Parc d'Activite Syrdall
L-5365 Munsbach
Luxembourg, Belgium

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

JOHN MORRISH
GLOBAL RADIO, SA
33 PARC D'ACTIVITE SYRDALL
L-5365 MUNSBACH
LUXEMBOURG BE BELGIUM

MAILED

APR 07 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Paul Heinerscheid :
Application No. 10/102,914 : DECISION ON REQUEST TO
Filed: March 22, 2002 : WITHDRAW AS ATTORNEY
For: COMBINATION OF MULTIPLE REGIONAL :
BEAMS AND A WIDE-AREA BEAM :
PROVIDED BY A SATELLITE SYSTEM

This is a decision on the request to withdraw as attorney/agent of record filed on March 13, 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 item (2) above. The undersigned, John W. Ryan, is not of record.

Accordingly, the request is DENIED.

Future communications from the Office will continue to be directed to the above-listed address unless a change of correspondence is specifically requested. A courtesy copy is being sent to the address listed below.

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

cc: CAROL CLAYTON
WILMER, CUTLER, & PICKERING
2445 M STREET, N.W.
WASHINGTON, D.C. 20037-1420

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John Morrish
Global Radio, SA
33 Parc d'Activite Syrdall
L-5365 Munsbach
Munsbach LU LUXEMBOURG

MAIL

JUN 2 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Paul Heinerscheid, et al.
Application No. 10/102,914
Filed: March 22, 2002
For: **COMBINATION OF MULTIPLE REGIONAL BEAMS AND A WIDE-AREA BEAM PROVIDED BY A SATELLITE SYSTEM**

DECISION ON REQUEST

This is a decision on the request filed on August 11, 2004 .

Requester has stated that they are the court appointed trustee for the assignee and had requested that all future correspondence on all matters relating to the subject application, be addressed to themselves; requested all correspondence issued in the USPTO from the time period covering January 1, 2003 through the present date be duplicated and forwarded to themselves; and then once the trustee confirms correspondence, then they in the near future will file relevant forms of new assignment. Requester has provided a copy of a document alleging proof of being the court appointed trustee. The accompanying document is not in English.

37 CFR 1.33. Correspondence respecting patent applications, reexamination proceedings, and other proceedings, states in part:

(a) Correspondence address and daytime telephone number ... The correspondence address may be changed as follows:

(1) Prior to filing of § 1.63 oath or declaration by any of the inventors . If a § 1.63 oath or declaration has not been filed by any of the inventors, the correspondence address may be changed by the party who filed the application. If the application was filed by a registered attorney or agent, any other registered practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any registered practitioner named in the transmittal
papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.

(2) Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).

(b) Amendments and other papers . Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter. [emphasis added]

A review of the application file reveals that a §1.63 declaration had been filed prior to the instant request. Therefore, in accordance with 37 C.F.R. §1.33, only the registered attorney of record, all of the applicants for patent or the assignee of the entire interest may change the correspondence address.

Therefore, the request to change the correspondence address for the subject application is **Denied**.

Requester's statement that once the correspondence address has been changed, then they will file new assignee documents, is reverse of a proper request. The trustee is not one of the attorneys of record for the subject application, is not all of the applicants and the trustee has failed to appropriately establish that they are acting on behalf of the assignee. The requester has not complied with the requirements of 37 C.F.R. §3.73(b), reproduced below.

37 C.F.R. § 3.73 Establishing right of assignee to take action, states in part:...

(a) The inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the owner of a trademark application or registration, unless there is an assignment.

(b)

(1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:

(i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). The documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office; or

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

(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

Further review of the application record reveals that there are still attorneys of record associated with this application. The subject request also fails to satisfy the requirements for a revocation of power of attorney for the aforementioned attorneys of record.

Accordingly, all future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office. A courtesy copy of this decision will be sent to the requestor at the address listed below.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

Cc: Maîte Yann Baden
Baden & Baden (Avocats A La Cour)
Centre Neuberg
7, Place du Theâtre
L--2613 Luxembourg
Luxemborg

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20004

COPY MAILED

APR 22 2005

OFFICE OF PETITIONS

In re Application of
Fodor, et al.
Application No. 10/102,915
Filed: March 22, 2002
Attorney Docket No. 56297-5003-15

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 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 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(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 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 above-noted, prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional 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 Petitions Attorney E. Shirene Willis at (571) 272-3230. 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 1634 for appropriate action on the amendment filed February 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 applications.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

Paper No. 8

MAIL

OCT - 2 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Thomas L. Evans
BANNER & WITCOFF, LTD.
Intellectual Property Law
601 S.W Second Avenue
Suite 1900
Portland, Oregon 97204

In re Application of:)
Steven R. Hetzler)
Application No. 10/102,930) **DECISION ON REQUEST FOR**
Filed: March 22, 2002) **WITHDRAWAL AS ATTORNEY**
For: SCSI DEVICE TRANSLATOR FOR NETWORK)

This is a decision on the Request To Withdraw from Representation filed August 25, 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 August 25, 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

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

cc: IBM Research Divison
ALMADEN RESEARCH CENER
650 Harry Road
San Jose, CA 95120-6099

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOSEPH P CURTIN, LLC
1469 NW MORGAN LANE
PORTLAND OR 97229-5291

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Hetzler, et al. :
Application No. 10/102,930 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. :
ARC920000025US11

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 30, 2007.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the final Office action mailed March 30, 2006. This Office action set an extendable period for reply of three (3) months. A Notice of Abandonment was mailed on May 15, 2007.

Petitioner timely filed a Notice of Appeal, together with a one month extension of time, on July 30, 2007. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

Applicants are reminded that they have an extendable period of two (2) months from the mailing date of this decision in which to file an Appeal Brief.

The matter is being forwarded to Group Art Unit 2154 for consideration of the Pre-Appeal Brief Request for Review, filed with the Notice of Appeal on July 30, 2007.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WELSH & FLAXMAN
2000 DUKE STREET, SUITE 100
ALEXANDRIA VA 22314

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MAR 10 2006

OFFICE OF PETITIONS

In re Application of :
Stuart H. Miller :
Application No. 10/102,934 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. MILL-001 :

This is a decision on the petition, filed March 8, 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 February 14, 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 3763 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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1875 PENNSYLVANIA AVE., NW
WASHINGTON DC 20006

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NOV 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Horowitz et al.	:	ON APPLICATION FOR
Application No. 10/102953	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 03/22/2002	:	AND REQUEST FOR RECONSIDERATION
Attorney Docket Number: 112905.121US1	:	OF THE PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705, filed July 31, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is 2149 days, not 1337 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. The petition is properly treated as an application for patent term adjustment under 37 C.F.R. § 1.705(b).

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 a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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

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

Any 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.

---

[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.

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

/ALESIA M. BROWN/

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

CC: Irah H. Donner
Wilmer Cutler Pickering Hale and Dorr LLP
399 Park Avenue
New York, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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1875 PENNSYLVANIA AVE., NW
WASHINGTON, DC 20006

Mail Date: 04/20/2010

Applicant	: Cheryl A. Horowitz	: DECISION ON REQUEST FOR
Patent Number	: 7636684	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/102,953	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2293** 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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WASHINGTON, DC 20006-1888

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JAN 18 2006

OFFICE OF PETITIONS

In re Patent No. 6,847,498	:	
Issue Date: January 25, 2005	:	
Application No. 10/102,974	:	LETTER
Filed: March 22, 2002	:	
Attorney Docket No. 495812000700	:	

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

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

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

This matter is being referred to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Michael J. Estes et al :
Application No. 10/103,054 : ON PETITION
Filed: March 20, 2002 :
Attorney Docket No. Phiar-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 2, 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 May 11, 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 August 12, 2004.

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

This matter is being referred to Technology Center AU 2883 for further processing.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080206

DATE : December 10, 2007

TO SPE OF : ART UNIT 2129

SUBJECT : Request for Certificate of Correction on Patent No.: 7,293,003

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

DAVID VINCENT
SUPERVISORY PATENT EXAMINER

SPE: /David Vincent/ Art Unit 2129

UNITED STATES PATENT AND TRADEMARK OFFICE

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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

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JUN 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Jethmalani et al.	:	
Application No. 10/103,068	:	DECISION ON PETITION
Filed: March 21, 2002	:	
Attorney Docket No. HO-P02128US2	:	

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

The petition is **DISMISSED**.

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

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed May 16, 2005, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on June 17, 2005. *See* MPEP 1215.04.

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)(II)(C) and (D). The instant petition lacks items (1).

The proposed reply required for consideration of a petition to revive after the notice of non-compliant appeal brief must be a complete and proper appeal brief under 37 CFR 41.37 and the appeal brief fee required by 37 CFR 41.20(b)(2), a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). The brief filed June 3, 2005 is not a complete and proper appeal brief under 37 CFR 41.37, as explained in the Notice of Abandonment mailed October 23, 2006. Consequently, the petition filed November 10, 2006 was not accompanied by the required reply.

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 Christopher Bottorff (571)272-6052 or in his absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

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JUL 07 2008

OFFICE OF PETITIONS

In re Application of :
Jagdish M. JETHMALANI, et al. :
Application No. 10/103,068 : ON PETITION
Filed: March 21, 2002 :
Attorney Docket No. **HO-P02128US2** :

This is a decision on the renewed petition under the provisions of 37 CFR 1.137(b), filed July 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed August 11, 2004, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on May 30, 2004. *See* MPEP 1215.04.

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. 11/598,168, filed November 10, 2006.

Application

Telephone inquiries concerning this decision should be directed to Lori Baker Amerson at (571) 272-6052.

The application file is being referred to Technology Center AU 3738 for appropriate action by the Examiner.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : OCTOBER 27, 2004

TO SPE OF : ART UNIT 1725

SUBJECT : Request for Certificate of Correction for Appl. No.: 10103084 Patent No.: 6763580 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

/Jonathan Johnson/ **1725**

SPE **Art Unit**

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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JUL 25 2005

OFFICE OF PETITIONS

In re Application of :
Patrick Bachinger, et al. :
Application No. 10/103,126 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 1748X/51021 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 13, 2005, to revive the above-identified application.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed October 20, 2004. The application is being revived solely for purposes of continuity with an application under 37 CFR 1.53.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

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. 11/109,786 filed April 20, 2005.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAUL C. ONDERICK
PATTERSON THUENTE SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MINNESOTA 55402-2100

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DEC 20 2004

OFFICE OF PETITIONS

In re Application of :
Randy Honeck et al :
Application No. 10/103,153 : NOTICE
Filed: March 21, 2002 :
Attorney Docket No. 1768.10US02

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/23/05

TO SPE OF : ART UNIT **3635**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/103155 6874494

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:

The following change does NOT apply: "Column 11, Line 27, after "surface" insert --of--."
There are two occurences of the word "surface" in column 11, line 27.
Therefore, in column 11, line 27, after the 2nd occurence of "surface" insert --of the--.

Carl D. Friedman
Supervisory Patent Examiner
Group 3600
SPE

3635
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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10/16/05

WAK

In re Application of :
Tom Niedenfuer :
Serial Number: 10/103,168 : DECISION
Filed: March 20, 2002 : ON
For: Apparatus and Method For Creating Faux Finishes : PETITION
On A Paintable Surface

This is in response to the request filed April 22, 2005, requesting permission for withdrawal as attorney from the above-identified application.

The Commissioner of Patents and Trademarks requires that there be at least 30 days between approval of 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). This is so that the applicant will have sufficient time to obtain other representation or take other action. If a period has been set for reply and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed.

In this case there is less than thirty days between approval of withdrawal of the current attorney of record and the expiration date of a time response period.

The Request is **Denied**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Thomas J. Strouse
Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 0 1 2002

OFFICE OF PETITIONS

Mark L. Yaskanin
SHERIDAN ROSS P.C.
Suite 1200
1560 Broadway
Denver CO 80202-5141

In re Application of
Boley, et al.
Application No. 10/103,198
Filed: March 15, 2002
Attorney Docket No. 4591-1

: DECISION GRANTING
: PETITION

This is a decision on the petition filed June 3, 2002 (certificate of mailing date May 28, 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 22, 2002.

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on March 15, 2002, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EL519532764US showing a March 15, 2002 "date-in" **and** a USPS date stamped postmark of March 15, 2002. The same Express Mail label number is found on the original application papers.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EL519532764US was deposited with the USPS on March 15, 2002. As stated in the petition, the use of an incorrect PTO mailing address does not affect the filing date assigned to any application or correspondence received in the Office. MPEP 501 III

Accordingly, the petition is granted.

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

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **March 15, 2002** and the mailing of a corrected filing receipt.

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

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Gene Harkins
Suite 500
3760 South Highland Drive
Salt Lake City UT 84106

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NOV 0 1 2005

OFFICE OF PETITIONS

In re Application of
Gene Harkins et al.
Application No. 10/103,210
Filed: March 21, 2002
Title: METHOD FOR SANITIZING SHELLS OF EGGS USING ELECTROLYZED OXIDIZING WATER

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

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on October 21, 2005.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 8, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees or publication fees[2]. Accordingly, the above-identified application became abandoned on January 9, 2004. A Notice of Abandonment was mailed on June 24, 2004.

With the present petition, Petitioner has submitted the petition fee, the publication fee, the issue fee, and the proper statement of unintentional delay.

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

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

2 See MPEP §710.02(e).

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 Office of Patent Publication - (703) 308-6789.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[3]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

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

cc: Chris D. Northcutt
Bracewell & Giuliani LLP
PO Box 61389
Houston, TX 77208-1389

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3 See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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MICHELIN NORTH AMERICA, INC.
515 MICHELIN ROAD
P.O. BOX 2026
GREENVILLE, SC 29602

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OFFICE OF PETITIONS

In re Application of :
Chauvin, et al. :
Application No. 10/103,212 :
Filed: March 21, 2002 :
Attorney Docket No. P10-0873 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before September 15, 2004. Accordingly, this application became abandoned on September 16, 2004. A Notice of Abandonment was mailed on October 27, 2004.

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

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

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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MILLIKEN & COMPANY
920 MILLIKEN RD (−495)
PO BOX 1926
SPARTANBURG SC 29304

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JAN 25 2005

OFFICE OF PETITIONS

In re Application of :
Kaushal Gandhi et al :
Application No. 10/103,235 : ON PETITION
Filed: March 21, 2002 :
Attorney Docket No. 5211A :

This is a decision on the petition, filed January 14, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee. This application issued into Patent No. 6,844,276 on January 18, 2005.

The petition is **DISMISSED as moot.**

Unfortunately, the petition reached the appropriate official for decision after the patent issued on the above-identified application.[1] The inconvenience caused petitioner in this matter is sincerely regretted.

Petitioner's attention is also directed to 37 CFR 1.313(d), which states: A petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue."

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

This patented file is being referred to Files Repository.

Karen Creasy

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

[1] The instant petition was received in the Office of Petitions, the deciding official for petitions to withdraw from issue after payment of the issue fee under 37 CFR 1.313(c), on January 21, 2005, after issuance of the instant application into a patent.

Phoenix Applications Management System

Table of Contents of 10103235 date: 01-21-2005

History

Date	Time	User	Code	Remarks
2005-01-21	9:12 AM	CGIBSON-BAYLOR	PETWDISS	FAX
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2004-10-28	11:12 AM	BQUEEN	XRUSH	
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2004-09-03	7:14 AM	PAIRUSER	ADHOC	Viewed by eDAN
2004-09-02	7:04 AM	PAIRUSER	ADHOC	Viewed by eDAN
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2003-08-11	3:16 AM	PAIRUSER	ADHOC	

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Paper No: 13

PAUL M. DENK
763 SOUTH NEW BALLAS ROAD
ST. LOUIS MO 63141

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JUN 25 2003

OFFICE OF PETITIONS

In re Application of: :
Chick :
Filed: 22 March, 2002 : ON PETITION
Application No. 10/103,242 :
Docket No.: 7307 :

This is a decision on the petition filed herein on 5 June, 2003, without statement as to the grounds for revival (unavoidable or unintentional delay) save payment only of the fee under 37 C.F.R. §1.137(a)[1] to revive the above-identified application as abandoned due to unavoidable delayed, and in light of the allegations also considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.[2]

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[1] A Petition filed under the provisions of 37 C.F.R. §1.137(a) must be accompanied by:
(1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application for 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 required by 37 C.F.R. §1.17(l);
(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the reply due date until the filing of a grantable petition pursuant to the is paragraph was unavoidable; and
(4) Any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c).

An application is "unavoidably" abandoned only where Petitioner (or Petitioner's counsel) takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, the response is not timely received in the Office. That is, in the context of ordinary human affairs the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[2] The regulations at 37 C.F.R. §1.181 provide, in pertinent part:
§1.181 Petition to the Commissioner.
(a) Petition may be taken to the Commissioner: (1) From any action or requirement of any examiner in the *ex parte* prosecution of an application which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court; (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. * * *
(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Brief or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declaration (and exhibits, if any) must accompany the petition.
© When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, it may be required that there have been a proper request for reconsideration (§1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his decision upon the matters averred in the petition, supplying a copy thereof to the petitioner.
(d) Where a fee is required for a petition to the Commissioner the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed. * * *

For the reasons set forth below, the petition:

- considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181 is **DISMISSED**; and

- under 37 C.F.R. §1.137(a)[3] to revive the application alleging unavoidable delay is **DISMISSED**.

NOTES: (1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b)[4] (as to unintentional delay) must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)"; and/or "Petition under 37 C.F.R. §1.137(b)";

(2) Thereafter, there will be no further reconsideration of this matter.

(f) Except as otherwise provided in these rules, any such petition not filed within 2 months from the action complained of, may be dismissed as untimely. The mere filing of a petition will not stay the period for reply to an Examiner's action which may be running against an application, nor act as a stay of other proceedings. * * * (Emphasis supplied.)

[3] A Petition filed under the provisions of 37 C.F.R. §1.137(a) must be accompanied by:
(1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application for 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 required by 37 C.F.R. §1.17(l);
(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the reply due date until the filing of a grantable petition pursuant to the is paragraph was unavoidable; and
(4) Any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c).

An application is "unavoidably" abandoned only where Petitioner (or Petitioner's counsel) takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, the response is not timely received in the Office. That is, in the context of ordinary human affairs the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[4] Effective December 1, 1997, the provisions of 37 C.F.R. §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 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §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 C.F.R. §1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. 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 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

BACKGROUND

A review of the record reveals:

- Petitioner failed to respond timely and properly to the final Office action mailed on 4 October, 2002, with reply due (absent extension of time) on or before 4 January, 2003;
- the instant application went abandoned after midnight 4 January, 2003;
- Petitioner filed on 3 February, 2003 (over a 23 January, 2003, certificate of mailing but without a request and fee for an extension of time) an Amendment After Final;
- Petitioner filed on 7 February, 2003 (over a 29 January, 2003, certificate of mailing but without a request and fee for an extension of time) a Notice of Appeal;
- an Advisory Action was mailed by the Examiner on 20 February, 2003, stating that the amendment after final filed on 3 February would not be entered because, inter alia, they:

  --raised new issues for consideration; and

  --failed to place the application in better form for appeal;

- on Petition, with his copy of a date-stamped (7 February, 2003) receipt card (see: MPEP §503[5]) Petitioner expressly, but erroneously, states that: "The Notice of Appeal, as can be

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[5] The commentary at MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

37 C.F.R. §1.54. Parts of application to be filed together; filing receipt.

(a) It is desirable that all parts of the complete application be deposited in the Office together; otherwise, a letter must accompany each part, accurately and clearly connecting it with the other parts of the application. See § 1.53(f) and (g) with regard to completion of an application.

* * *

If a self-addressed postcard is submitted with a patent application, that postcard will be provided with both the receipt date and application number prior to returning it to the addressee. The application number identified on such a postcard receipt is merely the preliminary assignment of an application number to the application, and should not be relied upon (e.g., with respect to foreign filings) as necessarily representing the application number assigned to such application. See 37 C.F.R. 1.53(b). The identifying data on the postcard should include:

(A) applicant's name(s);

(B) title of invention;

© number of pages of specification, claims (for nonprovisional applications), and sheets of drawing;

(D) whether oath or declaration is included;

(E) a list of any additional forms included with the application (e.g., application transmittal form, application data sheet, fee transmittal form, and/or provisional application cover sheet); and

(F) amount and manner of paying the fee.

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).

* * *

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

seen, was filed with the mailing certificate on January 29, 2003. This is within three months of the final rejection";

- on filing the instant petition(s), Petitioner requested and paid a fee ($205.00) for an extension of time, however, the request is untimely and the fee is being refunded via Treasury check;

- Petitioner provided no other documentation or support for the allegation of unavoidable delay under 37 C.F.R. §1.137(a).

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).[6]

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

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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.

[6] 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.

the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[7]

Delays in responding properly raise the question whether delays are unavoidable.[8] 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).[9]

And the Petitioner must be diligent in attending to the matter.[10] 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.[11]))

Allegations as to the Request to Withdraw
the Holding of Abandonment and
the Petition Alleging Unavoidable Delay

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[12]

A delay is not "unavoidable" when an applicant simply fails to file properly and timely the required reply and so permits the maximum extendable statutory period for reply to expire.[13]

In determining if a delay was unavoidable, decisions on reviving abandoned applications have adopted the standard of the reasonably prudent person acting in their most important business

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[7] 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.

[8] 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).

[9] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[10] 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.

[11] 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.

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

[13] See MPEP 711.03(c)(III)(C)(2).

matters.[14] In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[15]

Petitioner seems simply to have miscounted the months in the time period between the mail date of the final Office action (4 October, 2002) and the submission date under certificate of mailing (29 January, 2003).

That period exceeded by more than three (3) weeks the due date, absent an extension of time.

And the record herein evidences neither a general authorization for required fees nor an authorization set forth in the late-filed amendment or the late-filed Notice of Appeal--the latter of which recites only the inclusion of the filing fee for that specific paper.

Petitioner failed to file material satisfying the showing as required under 37 C.F.R. §1.137(a):

- no docket sheet(s) for the application evidencing that a transaction that should have been docketed wasn't;
- no mail logs evidencing that correspondence that should have been received wasn't; and
- not a copy of correspondence, memoranda, personal calendars or desk journals.

Presuming for the purposes of discussion that it was an act/omission of Counsel that contributed to any of the delay herein, the act(s) or omissions of the attorney/agent are imputed wholly to the applicant/client[16] in the absence of evidence that the attorney/agent has acted to deceive the client.[17]

It long has been the position of the Office that the use of the filing periods (such as in 37 C.F.R.

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[14] 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).

[15] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

[16] The actions or inactions of the attorney/agent must be imputed to the petitioners, who hired the attorney/agent to represent them. Link v. Wabash Railroad Co., 370 U.S. 626, 633-634, 82 S.Ct. 1386, 1390-91 (1962).

The failure of a party's attorney to take a required action or to notify the party of its rights does not create an extraordinary situation. Moreover, the neglect of a party's attorney is imputed to that party and the party is bound by the consequences. See Huston v. Ladner, 973 F.2d 1564, 23 USPQ2d 1910 (Fed Cir. 1992); Herman Rosenberg and Parker-Kalon Corp. v. Carr Fastener Co., 10 USPQ 106 (2d Cir. 1931).

[17] When an attorney intentionally conceals a mistake he has made, thus depriving the client of a viable opportunity to cure the consequences of the attorney's error, the situation is not governed by the stated rule in Link for charging the attorney's mistake to his client. In re Lonardo, 17 USPQ2d 1455 (Comm'r. Pat. 1990).

§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.[18] The Office has indicated that petitions to revive must be filed promptly after the applicant becomes aware of the abandonment.[19]

Delays such as here are inconsistent with a showing of diligence in the prosecution of the instant application,[20] and this course of action precludes revival of the application under 37 C.F.R. §1.137.[21]

Accordingly, Petitioner has failed to establish to the satisfaction of the Commissioner that the delay was "unavoidable" within the meaning of 37 C.F.R. §1.137.[22]

Should the Petitioner wish to renew the petition, he must:

- address these issues;
- evidence that the delay--at the very least--was not intentional (and so plead the matter as required under 37 C.F.R. §1.137(b).[23] (See: "Alternative Venue," below.)

CONCLUSION

Because Petitioner failed to satisfy the burdens set forth in Delgar v. Schulyer, the petition under

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[18] 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).

[19] 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.

[20] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[21] That an applicant may have been preoccupied with other matters that took precedence over the revival of an abandoned application is not viewed as an adequate justification for delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Rather, the revival of an application that was not intentionally abandoned is the applicant's "most important business." See Ex parte Pratt, 1887 Dec. Comm'r Pats. 31, 32-33 (1887). Specifically, an applicant seeking revival of an abandoned application is expected to file a petition under 37 C.F.R. §1.137 within two to three months of discovering its abandonment. See In re Kokaji, 1 USPQ2d 2005, 2007 (Comm'r Pats. 1986); see also Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53161, 1203 Off. Gaz. Pat. Office at 88-89 (response to comment 65).

[22] See Application of G, 11 USPQ2d at 1380; In re Application of S, Id.

[23] Any renewed petition should include copies of any correspondence or communications between counsel and applicant, that would rebut any inference that the filing of the first petition to revive was intentionally delayed. This showing should include, but is not limited to, docket records, tickler reports, and file jacket entries for this application. Petitioner must also supply declarations from himself and Counsel (and all staff of Counsel who may have contributed to the delays) in this regard.

37 C.F.R. §1.181 must be and hereby is **dismissed**.

Moreover, the circumstances of this application do not demonstrate as of this writing that the delay in filing the first petition was/is within the statutory and regulatory meaning of unavoidable delay--and the instant petition fails to satisfy the "showing" requirement as to relief sought.

Therefore, in the absence of those requirements, the petition herein 37 C.F.R. §1.137(a) must be **dismissed**.

ALTERNATIVE VENUE

It appears that Petitioner is unable to make a showing of unavoidable delay surpassing that tendered heretofore. As a result, Petitioner's only alternative to irretrievable abandonment is to file a petition and fee (as set forth at NOTE 1, above at page 2) under 37 C.F.R. §1.137(b), and state therein 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.".

Thus, Petitioner may wish to supplement his petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing " burden is much less onerous. Petitioner is cautioned that failure to submit such a petition 37 C.F.R. §1.137(b) timely may be viewed as intentional delay and an absolute bar to revival.

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

By mail: (Effective 1 May, 2003)[24]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

[24] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

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
www.uspto.gov

JJGJr: 07-03

Paper No: 16

PAUL M. DENK
763 SOUTH NEW BALLAS ROAD
ST. LOUIS MO 63141

COPY MAILED

JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of:
Chick
Filed: 22 March, 2002
Application No. 10/103,242
Docket No.: 7307

ON PETITION

This is a decision on the petitions filed herein on 10 July (and supplemented on 25 July), 2003, under 37 C.F.R. §1.137(b)[1] to revive the above-identified application as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

A review of the record reveals:

- Petitioner failed to respond timely and properly to the final Office action mailed on 4 October, 2002, with reply due (absent extension of time) on or before 4 January, 2003;
- the instant application went abandoned after midnight 4 January, 2003;

[1] Effective December 1, 1997, the provisions of 37 C.F.R. §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 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §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 C.F.R. §1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. 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 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

- Petitioner filed on 3 February, 2003 (over a 23 January, 2003, certificate of mailing but without a request and fee for an extension of time) an Amendment After Final;

- Petitioner filed on 7 February, 2003 (over a 29 January, 2003, certificate of mailing but without a request and fee for an extension of time) a Notice of Appeal;

- an Advisory Action was mailed by the Examiner on 20 February, 2003, stating that the amendment after final filed on 3 February would not be entered because, inter alia, they:

  --raised new issues for consideration; and

  --failed to place the application in better form for appeal;

- with the original petitions, addressing his copy of a date-stamped (7 February, 2003) receipt card (see: MPEP §503) Petitioner expressly, but erroneously, stated that: "The Notice of Appeal, as can be seen, was filed with the mailing certificate on January 29, 2003. This is within three months of the final rejection";

- the original petitions, filed (with fee) on 5 June, 203, were dismissed on 25 June, 2003, for failing to satisfy the "showing" requirement under 37 C.F.R. §1.137(a) and §1.181;

- with the instant petition (with fee) under 37 C.F.R. §1.137(b), Petitioner made the statement of unintentional delay, and Petitioner previously satisfied the "reply" requirement of the regulation.

Petitioner has authorized fees for an extension of time. As noted in the decision of 25 June, 2003, because the time period for reply to the Office action previously expired, no requests/fees for extension of time are applicable here, and it appears that none have been charged in that regard.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive

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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.

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]

(Moreover, 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.[7] The Office has indicated that petitions to revive must be filed promptly after the applicant becomes aware of the abandonment.[8] Such does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]

CONCLUSION

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[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] 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).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Accordingly, the petition to revive under 37 C.F.R. §1.137(b) hereby is **granted**.

This application is being forwarded to Technology Center 3600 to await the Examiner's Answer.

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

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
www.uspto.gov

JJGJr: 02-04

Paper No: 20

PAUL M. DENK
763 SOUTH NEW BALLAS ROAD
ST. LOUIS MO 63141

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FEB 11 2004

OFFICE OF PETITIONS

In re Application of: :
Chick :
Filed: 22 March, 2002 : ON PETITION
Application No. 10/103,242 :
Docket No.: 7307 :

This is a decision on the petition submitted on 27 January, 2004, and in light of the allegations properly considered as a request to withdraw the holding of abandonment properly considered under 37 C.F.R. §1.181.

The petition is **GRANTED**.

BACKGROUND

The record indicates that:

A review of the record reveals:

- Petitioner failed to respond timely and properly to the final Office action mailed on 4 October, 2002, with reply due (absent extension of time) on or before 4 January, 2003;
- the instant application went abandoned after midnight 4 January, 2003;
- Petitioner filed on 3 February, 2003 (over a 23 January, 2003, certificate of mailing but without a request and fee for an extension of time) an Amendment After Final;
- Petitioner filed on 7 February, 2003 (over a 29 January, 2003, certificate of mailing but without a request and fee for an extension of time) a Notice of Appeal;
- an Advisory Action was mailed by the Examiner on 20 February, 2003, stating that the 3

February,2003, amendment after final would not be entered because, *inter alia*, it raised new issues for consideration and failed to place the application in better form for appeal;

- with the original petitions, addressing his copy of a date-stamped (7 February, 2003) receipt card (see: MPEP §503) Petitioner expressly, but erroneously, stated that: "The Notice of Appeal, as can be seen, was filed with the mailing certificate on January 29, 2003. This is within three months of the final rejection";

- the original petitions, filed (with fee) on 5 June, 2003, were dismissed on 25 June, 2003, for failing to satisfy the "showing" requirement under 37 C.F.R. §1.137(a) and §1.181, and, in a renewed petition (with fee) under 37 C.F.R. §1.137(b), Petitioner made the statement of unintentional delay (Petitioner previously satisfied the "reply" requirement of the regulation); as a result, that petition was granted on 31 July, 2003, and the file was returned to await the Examiner's Answer;

- for reasons unexplained in the record, the Examiner issued a Notice of Abandonment on 16 January, 2004 (and the Examiner has concurred in withdrawing of the holding of abandonment).

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]

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[1] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

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]))

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.[7]

Petitioner contends and evidences timely reply.

CONCLUSION

Accordingly, Petitioner satisfied the burdens set forth in Delgar v. Schulyer, and the petition under 37 C.F.R. §1.181 hereby is **granted** and the 16 January, 2004, Notice of Abandonment is **vacated** and fees in connection with this petition are waived.

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

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

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[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.

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

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

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Paper No: 22

PAUL M. DENK
763 SOUTH NEW BALLAS ROAD
ST. LOUIS MO 63141

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OFFICE OF PETITIONS

In re Application of:
Chick
Filed: 22 March, 2002
Application No. 10/103,242
Docket No.: 7307

ON PETITION

This is a decision on the petition submitted on 27 January, 2004, to revive the instant application under 37 C.F.R. §1.137(a).

The petition is **DISMISSED as moot**.

BACKGROUND

A review of the record reveals:

- Petitioner failed to respond timely and properly to the final Office action mailed on 4 October, 2002, with reply due (absent extension of time) on or before 4 January, 2003;
- the instant application went abandoned after midnight 4 January, 2003;
- Petitioner filed on 3 February, 2003 (over a 23 January, 2003, certificate of mailing but without a request and fee for an extension of time) an Amendment After Final;
- Petitioner filed on 7 February, 2003 (over a 29 January, 2003, certificate of mailing but without a request and fee for an extension of time) a Notice of Appeal;
- an Advisory Action was mailed by the Examiner on 20 February, 2003, stating that the 3 February,2003, amendment after final would not be entered because, *inter alia*, it raised new issues for consideration and failed to place the application in better form for appeal;
- with the original petitions, addressing his copy of a date-stamped (7 February, 2003)

receipt card (see: MPEP §503) Petitioner expressly, but erroneously, stated that: "The Notice of Appeal, as can be seen, was filed with the mailing certificate on January 29, 2003. This is within three months of the final rejection";

- the original petitions, filed (with fee) on 5 June, 2003, were dismissed on 25 June, 2003, for failing to satisfy the "showing" requirement under 37 C.F.R. §1.137(a) and §1.181, and, in a renewed petition (with fee) under 37 C.F.R. §1.137(b), Petitioner made the statement of unintentional delay (Petitioner previously satisfied the "reply" requirement of the regulation); as a result, that petition was granted on 31 July, 2003, and the file was returned to await the Examiner's Answer;
- for reasons unexplained in the record, the Examiner issued a Notice of Abandonment on 16 January, 2004 (and the Examiner concurred in withdrawing of the holding of abandonment), and a petition considered under 37 C.F.R. §1.181 was granted on 11 February, 2004, withdrawing the holding of abandonment.

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

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[1] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

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]))

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(a) is **dismissed as moot** and the fee ($55.00) previously paid is refunded via Treasury check.

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

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

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[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.

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Paper No. 8

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 91614

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OFFICE OF PETITIONS

In re Application of
Sircar, et al.
Application No. 10/103,258
Filed: March 20, 2002
Attorney Docket No. AVANIR.B61CP2
For: BENZIMIDAZOLE COMPOUNDS FOR REGULATING IGE

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed July 5, 2002(certificate of mailing date July 1, 2002), requesting that the above-identified application be accorded a filing date of March 20, 2002 with pages 55, 56 and 57 of the specification, submitted on July 5, 2002, considered as part of the original disclosure.

The petition under 37 CFR 1.53(e) is **DISMISSED**.

The application was filed on March 20, 2002. On April 30, 2002, the Office of Initial Patent Examination mailed a " Notice to File Missing Parts of Nonprovisional Application" informing petitioners, *inter alia*, that pages 55, 56, and 57 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request the March 20, 2002 filing date for pages 55, 56 and 57 on the basis that the allegedly omitted pages were received in the Patent and Trademark Office (PTO) on March 20, 2002. In support, the petition is accompanied by a copy of applicants' Express Mail label EL901403460US with a date-in of March 20, 2002 and a copy of applicants postcard receipt dated March 20, 2002.

Petitioners are advised that the provisions of 37 CFR 1.10(e) cannot be utilized to prove the contents of a mailing. MPEP 513 states, "Where there is a dispute as to the contents of correspondence submitted to the Office,...an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s)... were filed in the Office with such correspondence. Rather, where the records of the Office (e.g. the file of the application) contain any document(s)... corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP 503 containing specific itemization of the document(s)... purported to have been filed with the correspondence at issue) that the Office received and

misplaced any document(s).. That is not among the official records of the Office."

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. MPEP 503. Petitioners have submitted their copy of the itemized postcard receipt. Unfortunately, it does not show a date stamp by the Office. Petitioners are urged to submit their copy of the Office date stamped itemized postcard receipt.

The request to accord pages 55, 56, and 57 of the specification a filing date of March 20, 2002 is dismissed.

Regarding the declaration filed on July 19, 2002, the declaration contains noninitialed, nondated alterations to Inventor Richards' residence and Inventor Major's citizenship. 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 noninitialed and or nondated 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).

A supplemental oath or declaration identifying the entire inventive entity , but signed by only Inventor Richards and Inventor Major, formalizing the changes in their information should be filed within **TWO MONTHS**. Extensions of time under 37 CFR 1.136(a) are permissible.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 20, 2002. Pages 55, 56, and 57 submitted with the instant petition will **not** be considered part of the original filing.

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. 11

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 91614

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OFFICE OF PETITIONS

In re Application of
Sircar, et al.
Application No. 10/103,258
Filed: March 20, 2002
Attorney Docket No. AVANIR.B61CP2
For: BENZIMIDAZOLE COMPOUNDS
FOR REGULATING IGE

: DECISION ON
: PETITION

This is a decision on the reconsideration petition under 37 CFR 1.53(e), filed October 25, 2002, requesting that the above-identified application be accorded a filing date of March 20, 2002 with pages 55, 56 and 57 of the specification, submitted on July 5, 2002, considered as part of the original disclosure.

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was filed on March 20, 2002. On April 30, 2002, the Office of Initial Patent Examination mailed a " Notice to File Missing Parts of Nonprovisional Application" informing petitioners, *inter alia*, that pages 55, 56, and 57 of the specification appeared to have been omitted.

In response to the Notice, petitioners filed a petition on July 5, 2002 (certificate of mailing date July 1, 2002). Petitioners requested the March 20, 2002 filing date for pages 55, 56 and 57 on the basis that the allegedly omitted pages were received in the Patent and Trademark Office (PTO) on March 20, 2002. In support, the petition was accompanied by a copy of applicants' postcard receipt dated March 20, 2002. The petition was dismissed because applicants inadvertently did not submit their copy of the date stamped postcard receipt. Thus, the Office could not verify when it received the items listed on the postcard.

With the instant reconsideration petition, petitioners have submitted their copy of the date stamped itemized postcard receipt. The properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. MPEP 503.

Accordingly, the request to accord pages 55, 56, and 57 of the specification a filing date of March 20, 2002 is granted.

Pursuant to petitioners' authorization, deposit account no. 11-1410 will be credited the $130.00 petition fee.

Petitioners are reminded that a supplemental oath or declaration identifying the entire inventive entity, but signed by only Inventor Richards and Inventor Major, formalizing the changes in their information is still due. This requirement was stated in the September 12, 2002 decision on petition. Extensions of time under 37 CFR 1.136(a) are permissible.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 20, 2002. Pages 55, 56, and 57 submitted on July 5, 2002 will be used for processing purposes.

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

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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. 15

HORIZON IP PTE LTD
166 KALLANG WAY
6TH FLOOR
SINGAPORE 349249

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OFFICE OF PETITIONS

In re Application of
Thomas Roehr, et al.
Application No. 10/103,278
Filed: March 21, 2002
Attorney Docket No. 12205/4

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on October 6, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed November 21, 2002. A Notice of Abandonment was mailed August 21, 2003.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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

The application file is being forwarded to Technology Center AU 2818, for further processing of the request for continued examination under 37 CFR 1.114 filed October 6, 2003.

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

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P.O. BOX 1450
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HUMAN GENOME SCIENCES INC.
9410 KEY WEST AVENUE
ROCKVILLE, MD 20850

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OFFICE OF PETITIONS

In re Application of
George A. Komatsoulis et al
Application No. 10/103,295
Filed: March 22, 2002
Attorney Docket No. PZ030P2

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(6) AND
: 37 CFR 1.183

This is a decision on the petition, filed August 18, 2003, which is being treated as (1) a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/234,925, and (2) as a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.78(a)(6) as that rule operates in conjunction with 37 CFR § 1.17(t).

The petition considered under 37 CFR 1.78(a)(6) is **DISMISSED**.

The petition considered under 37 CFR 1.183 is **DISMISSED**.

Any request for reconsideration of this decision must be filed within two months of the mail date of this decision. Note 37 CFR 1.181(f).

WITH RESPECT TO THE PETITION 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 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;[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)(5)(ii) and the date the claim was filed was

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[1] Any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference (i.e., in an amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed provisional application, identifying it as a provisional application, and including the application number (consisting of the series code and serial number).

> unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

This petition lacks the proper reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(5).

In reviewing the chain of applications to which applicant is seeking a claim for priority, it is noted that Application No. PCT/US01/29871 does not make a reference to an earlier-filed application. More specifically, according to Office computer database records, prior-filed Application No. PCT/US01/29871, filed September 24, 2001, does not reference intermediate Application No. PCTUS01/00911. Further, while Application No. PCT/US01/00911 references the fact that it is a "continuation" of Application No. 09/482,273, it fails to include the chain of applications thereafter; i.e., the fact that Application No. 09/482,273 is a continuation-in-part of Application No. PCT/US99/15849, which claims benefit of provisional Application Nos. 60/092,921; 60/092,922; and 60/092,956. Where an application claims a benefit under 35 U.S.C. § 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d).

Also, while the amendment submitted with the petition indicates that Application No. PCT/US01/00911 is a "continuation-in-part" of Application No. 09/482,273, this appears to be improper, since Office computer database records indicate that Application No. PCT/US01/00911 is in fact a "continuation" of Application No. 09/482,273. Lastly, petitioner should clarify whether the amendment should have indicated that this application is a continuation-in-part of Application No. PCTUS01/29871, filed September 24, 2001, and [and not "which is"] a continuation-in-part of Application No. PCT/US01/00911, filed January 12, 2001.[2]

WITH RESPECT TO WAIVER OF THE SURCHARGE REQUIRED BY 37 CFR 1.78(A)(6) AND 37 CFR 1.17(t).

Petitioner requests that no surcharge under 37 CFR 1.17(t) be required to correct the unintentional omission of the benefit claim to U.S. Provisional Application No. 60/234,925 for the following reason:

> The Office has stated that in certain circumstances where an application was properly scheduled for publication on the basis of the information concerning the claim submitted within the time period set forth in § 1.78(a)(2)(ii), 'the

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[2] In making any amendment, petitioner's attention is directed to 37 CFR 1.121.

> Office will not require a petition (or surcharge under § 1.17(t)).' Requirements for Claiming the Benefit of Prior-Filed Applications Under Eighteen-Month Publication of Patent Applications, 66 Fed. Reg. 67087, 67089-90 (Dec. 28, 2001); *see also* Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. §§ 119(e), 120, 121, and 365(c), 1268 OG 89 (Mar. 18, 2003). Applicants note that the properly made benefit claims in this application include the claim to the earliest priority date, July 15, 1998. Thus, publication of the instant application was properly scheduled based on the properly made benefit claim, notwithstanding the unintentionally omitted benefit claim to U.S. Provisional Application No. 60/234,925.

In view of the above, petitioner is in effect requesting waiver of the surcharge fee required by 37 CFR 1.17(t). Accordingly, the petition is being treated as a petition under 37 CFR 1.183 to waive the surcharge under 37 CFR 1.17(t).

37 CFR 1.183 states that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

In order to grant any petition under 37 CFR 1.183, petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985). Petitioner has not shown that either condition exists in this case.

The circumstances of this case do not demonstrate an extraordinary situation, much less one where justice requires waiver of the rules. The failure to timely submit the claim for priority of the earlier application within the time period set forth in 37 CFR 1.78(a)(5)(ii) was a circumstance entirely within petitioner's control, and could have been avoided by the exercise of reasonable care and diligence. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). Furthermore, since the USPTO did not cause or contribute to petitioner's filing delay, this case is even further removed from consideration as one where "justice requires" equitable relief. See Helfgott & Karras, P.C. v. Dickinson, 209 F.3d 1328, 54 USPQ2d 1425 (Fed. Cir. 2000).

It is noted that any belated changes requested for an application undergoing pre-grant publication are simply by made by way of republication, rather than holding up an earlier scheduled pre-grant publication. In any event, petitioner appears to confuse the publication of an application pursuant

to 35 U.S.C. § 122(b), with the surcharge authorized by 35 U.S.C. § 119(e), that petitioner triggered solely by his own delay in submission of the priority claim in question. There is simply no causal relationship between the publication date of this or any application and the imposition of the surcharge in question. Petitioner overlooks that his failure to timely claim the benefit of the earlier filed application under 35 U.S.C. § 119(e) constituted a *waiver* of his right to claim such benefit of priority.

It is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or procedures under 37 CFR 1.183.

In view of the above, and as authorized, the $1,300 surcharge fee for the petition under 37 CFR 1.78(a)(6) and the $130 petition fee under 37 CFR 1.183 will be charged to petitioner's Deposit Account No. 08-3425.

In order to expedite consideration, petitioner may wish to reply to this decision by facsimile transmission to the number indicated below and to the attention of Karen Creasy.

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

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

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

By Fax: (703) 308-6916
ATTN: Office of Petitions

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

Frances Hicks

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

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9410 KEY WEST AVENUE
ROCKVILLE, MD 20850

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OFFICE OF PETITIONS

In re Application of :
George A. Komatsoulis et al :
Application No. 10/103,295 : DECISION ON PETITION
Filed: March 22, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. PZ030P2 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed December 9, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/234,925, filed September 25, 2000.

The petition is **Granted.**

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

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

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

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

The instant pending nonprovisional application was filed on March 22, 2002. Intermediate PCT Application No. PCT/US01/29871, was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/234,925, which was filed on September 25, 2000, 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. 60/234,925, filed September 25, 2000, is granted.

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

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

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

The application is being forwarded to Technology Center AU 1631 for appropriate action on the amendment submitted with the instant petition and for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/234,925, filed September 25, 2000.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HUMAN GENOME SCIENCES INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

In re Patent No. 7,091,315	LETTER REGARDING
Issued: August 15, 2006,	PATENT TERM ADJUSTMENT
Application No. 10/103,295	
Filed: March 22, 2002	
Atty. Dkt. No.: PZ030P2	

This is a decision on the "LETTER REGARDING PATENT TERM ADJUSTMENT CALCULATION," filed October 16, 2006. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(d).

The application for patent term adjustment under 37 CFR 1.705(d) is hereby **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,091,315 on August 15, 2006. The patent issued with a patent term adjustment (PTA) of 173 days. Patentees indicate that the adjustment of 173 days is incorrect and contest the reduction of 110 days assessed in connection with the reply filed December 9, 2003.

Patentees are advised that any request for reconsideration under 37 CFR 1.705(d) that raises issues that were raised, or could have been raised, in an application for patent term adjustment under 37 CFR 1.705(b) shall be dismissed as untimely as to those issues. As the 59 day reduction contested by patentees could have been raised under 37 CFR 1.705(b), patentees' request for reconsideration of said reduction is dismissed as untimely.

Further, submission of the required $200.00 patent term adjustment application fee is a prerequisite prior to treatment on the merits of any application submitted pursuant to 37 CFR 1.705. The instant application lacks the required fee.

In view thereof, the adjustment of 173 days will not be reconsidered.

Any request for reconsideration of this decision must be submitted within TWO MONTHS of the mail date of the instant decision indicated above. Extensions under 37 CFR 1.136 are not permitted.

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

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

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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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DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HIGHWAY
SUITE 2110
AUSTIN, TX 78759

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OFFICE OF PETITIONS

In re Application of
Daryl Carvis Cromer et al.
Application No. 10/103,300
Filed: March 21, 2002
Attorney Docket No: RSP920010175US1

ON PETITION

This is a decision on the petition filed June 22, 2006, to revive the above identified application under 37 CFR 1.137(a)[1].

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

The application was held abandoned on October 31, 2005, for failure to file a timely response to the Final Office Action mailed July 29, 2005. The office action set a three month shortened statutory period. Accordingly, a Notice of Abandonment was mailed on May 5, 2006.

Petitioner asserts that a response to the Final Office Action, an amendment, was timely filed September 30, 2005 and has submitted a copy of the reply said to have sent but not forwarded to the Examiner for consideration.

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

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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©)).

> said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

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.[3]

A review of the record for this application file reveals that a response was timely filed on September 30, 2005 but did not receive consideration prior to the mailing of the Notice of Abandonment.

In response to the Notice of Abandonment mailed May 5, 2006, and in view of discussions with the Examiner of record concerning the amendment filed September 30, 2006, although not timely considered the amendment contained errors in the claims which would not have placed the application in condition for allowance. Petitioner has therefor filed an RCE and amendment.

The RCE fee in the amount of $790.00 has been applied. However the fee for the petition to revive is set at $500 not $110.00 as was indicated in the petition. Therein, petitioner's deposit account no. 09-0461 has been properly charged in the amount of $500.00 for the petition to revive.

A further review reveals that the RCE fee in the amount of $395.00 and the two month extension of time fee in the amount of $225.00 were both properly and timely applied to the finance account for the instant application.

This matter is being referred to Technology Center 2618 for processing of the RCE and amendment filed June 22, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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SUITE 2110
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OFFICE OF PETITIONS

In re Application of
Daryl Cromer et al.
Application No. 10/103,300
Filed: March 21, 2002
Attorney Docket No. **RPS920010175US1**

ON PETITION

This is a decision on the petition filed December 13, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned November 23, 2006 for failure to timely pay the issue fee on or before November 22, 2006. Accordingly, a Notice of Abandonment was mailed December 6, 2006.

The issue fee, publication fee and petition fee have all 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)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 31, 2006

TO SPE OF : ART UNIT 1725

SUBJECT : Request for Certificate of Correction on Patent No.: 6,875,950

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

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

Eva James

Thank You For Your Assistance

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

References cited

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:

_____

_____

_____

_____

_____

_____ 1725

SPE **Art Unit**

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,875,950

DATED : April 5, 2005

INVENTOR(S) : Naumov et al

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

Title page,
Item 54, delete "AUTOMATED LASER TRIMMING OF RESISTORS", insert -- DRIFT-SENSITIVE LASER TRIMMING OF CIRCUIT ELEMENTS --

Item 73, delete "Nashua, NH", insert – Billerica, MA –

Item 56 – References Cited – U.S. Patent Documents, insert
-- 4,772,774 A * 9/1988 Lejeune et al
4,795,881 A * 1/1989 Lejeune et al
4,901,052 A * 2/1990 Chapel, Jr. et al
6,339,604 B1 * 1/2002 Smart
6,534,743 B2 * 3/2003 Swenson et al --

Column 14,
Line 4, delete "addative", insert – additive --

Column 21,
Line 41, delete "hsitorgrams", insert – histograms --

Column 33,
Line 48, delete "configured process", insert -- configured to process --

MAILING ADDRESS OF SENDER:

Maine & Asmus
PO Box 3445
Nashua, NH 03061-3445

PATENT NO. 6,875,950

No. of additional copies

⇨ 1

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

MAR 07 2006

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060803

DATE : August 3, 2006

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: 6890748

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**

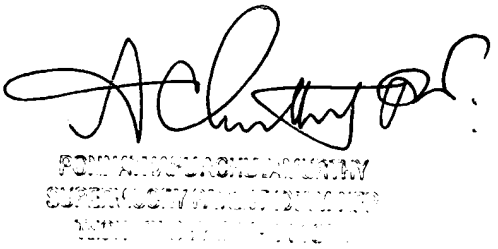
The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

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

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

Comments:



SPE: Ponnathapura N. Achutamurthy **Art Unit** 1652

UNITED STATES PATENT AND TRADEMARK OFFICE

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Head, Johnson & Kachigian
228 W 17th Place
Tulsa, OK 74119

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OFFICE OF PETITIONS

In re Application of
Brian E. Davidson, et. al.
Application No. 10/103,332
Filed: March 21, 2002
Attorney Docket No. CON875/02090

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed February 6, 2004, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Brian E. Davidson
2. Dan Wilson
3. William Morrissey

The above-identified application is being forwarded to the Publishing Division, to await a response to the Notice of Allowance mailed January 9, 2004.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

Enclosure: 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

Booth Udall, PLC
1155 W Rio Salado Parkway
Suite 101
Tempe, AZ 85281

Mail Date: 04/20/2010

Applicant	: Gregory H. Slocum	: DECISION ON REQUEST FOR
Patent Number	: 7640180	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/103,384	: 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 **1440** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Glenn E. Von Tersch
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
12400 Wilshire Boulevard, Seventh Floor
Los Angeles, CA 90025-1026

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JUL 24 2006
OFFICE OF PETITIONS

In re Application of :
Kristoffer D. Fleming :
Application No. 10/103,385 : ON PETITION
Filed: March 20, 2002 :
Attorney Docket No. 42390P14328 :

This is a decision on the petition under 37 CFR 1.137(b), filed on March 2, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed June 9, 2005. A Notice of Abandonment was mailed on November 28, 2005.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement 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 $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. 11

AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P O BOX 7599
LOVELAND, CO 80537-0599

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OFFICE OF PETITIONS

In re Application of :
Jonathan Ernest Buczkowski et al :
Application No. 10/103,392 : DECISION GRANTING PETITION
Filed: March 21, 2002 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. 10020108-1 :

This is a decision on the petition, filed October 27, 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 October 16, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2829 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
www.uspto.gov

PAUL AND PAUL
2000 MARKET STREET
SUITE 2900
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Jorg Peter Schur
Application No. 10/103,396
Filed: March 20, 2002
Attorney Docket No: von K.002 Con

This is a decision on the petition, filed July 12, 2007 to withdraw the holding of abandonment, which is treated under 37 CFR 1.181.

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

A non-Final Office Action was mailed July 31, 2006 which set a three month period for response. A Notice of Abandonment was mailed February 9, 2007.

Petitioners argue that a proper response was filed January 31, 2007 with a three month extension of time request and provide a copy of a USPTO date stamped postcard receipt as proof of filing.

A search of the application file and the USPTO records reveals that in fact, an amendment and three month extension of time were timely filed on February 5, 2007 and that the response includes a certificate of mail date of January 31, 2007.

Accordingly, the response was timely and the Notice of Abandonment mailed February 9, 2007 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 1618 for appropriate action on the amendment filed February 5, 2007 (January 31, 2007 certificate of mail date), a copy of which was submitted with the instant petition.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JAN 29 2007

OFFICE OF PETITIONS

MADAN, MOSSMAN & SRIRAM, P.C.
2603 AUGUSTA, SUITE 700
HOUSTON TX 77057

In re Application of :
FERWORN, et al. :
Application No. 10/103,417 : DECISION ON PETITION
Filed: March 19, 2002 :
Attorney Docket No. GRI001/0136194 :

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

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely pay the issue and publication fees on or before June 26, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed March 24, 2006 . Accordingly, the date of abandonment of this application is June 27, 2006 .

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

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 Monica Graves at (571) 272-7253.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MADAN, MOSSMAN & SRIRAM PC
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057

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JUN 20 2007

OFFICE OF PETITIONS

In re Application of :
FERWORN, et al. :
Application No. 10/103,417 : DECISION ON PETITION
Filed: March 19, 2002 :
Attorney Docket No. GRI001/0136194 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 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 June 26, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed March 24, 2006 . Accordingly, the date of abandonment of this application is June 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 $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper 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 Publishing Division for processing into a patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

CERTIFICATE OF MAILING 37 CFR 1.10

I hereby certify that this correspondence along with any referred to as being attached or enclosed is being deposited with the United States Postal Service as "Express Mail, Post Office to Addressee," Express Mail No. **EV835823463** in an envelope addressed to: **MS: Petitions**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this August 17, 2006.

Margaret A. Pruitt

OIPE IAP08 AUG 18 2006 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RE: Kevin A. Ferworn et al.	§	Group Art No.: 2123
	§	
Serial No.: 10/103,417	§	Examiner: Juan Carlos Ochoa
	§	
Filing Date: March 19, 2002	§	Confirmation No.: 9778
	§	
Title: "A Method and Apparatus for Simulating PVT Parameters"	§	Attorney Docket No.: 584-28478-US
	§	

MS: **PETITIONS**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR § 1.137(b)

This application became abandoned on August 1, 2006, due to Applicant's failure to timely pay the issue fee. In order to withdraw the abandonment and allow this application to issue, Applicant submits the Issue Fee. Applicant submits a check in the amount of $1700.00 to cover the Issue Fee and Publication Fee. The Commissioner is authorized to charge any underpayments or credit any overpayment of fees to Deposit Account No. **02-0429 (584-28478-US)**.

Applicant respectfully requests that, with the submission of the Issue Fee, the Notice of Abandonment of this application be withdrawn and the application be allowed to issue.

00000004 020429 10103417

Respectfully submitted,

Date: August 17, 2006

Chandran D. Kumar
Registration No. 48,679
MADAN, MOSSMAN & SRIRAM P.C.
2603 Augusta Drive, Suite 700
Houston, Texas 77057-5640
Telephone: (713) 266-1130
Facsimile: (713) 266-8510

ATTORNEY FOR APPLICANT

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

JOHN S. BEULICK
C/O ARMSTRONG TEASDALE, LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST LOUIS, MO 63102-2740

Mail Date: 04/20/2010

Applicant	: Michael J. Feldhake	: DECISION ON REQUEST FOR
Patent Number	: 7577631	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/103,422	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **735** 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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VERIZON LEGAL DEPARTMENT
PATENT MANAGEMENT GROUP
1320 N. COURTHOUSE ROAD, 9TH FLOOR
ARLINGTON, VA 22201-2525

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JUN 16 2009

OFFICE OF PETITIONS

In re Application of :
Russell Andrew Fink et al :
Application No. 10/103,424 : ON PETITION
Filed: March 21, 2002 :
Attorney Docket No. 01-4028 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 30, 2008, 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 July 31, 2008.

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

This matter is being referred to Technology Center AU 2436 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
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ALEXANDRIA, VA 22313-1450
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JUN 21 2007

OFFICE OF PETITIONS

Paul J. Maginot
Maginot, Moore & Bowman
Bank One Center/Tower
111 Monument Circle, Suite 3000
Indianapolis IN 46204-5115

In re Application of :
Loch, et al. :
Application No. 10/103,426 : DECISION ON PETITION
Filed: March 21, 2002 :
Docket No.: 1761-0014 :

This is a decision on the petition under 37 CFR 1.181, filed April 18, 2005, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the non-final Office action mailed August 16, 2004. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed March 3, 2005.

Petitioners assert non-receipt of the non-final Office action.

In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The arguments and supporting documentation presented have been carefully considered and support the conclusion that the non-final Office was not received.

In view thereof the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The change of correspondence address submitted August 2, 2006 by Michael Beck has not been entered into the record as there is no indication in the record that Mr. Beck has been empowered to act on behalf of applicants. While this decision is being duly transmitted, all future correspondence concerning this application will be forwarded to the correspondence address currently of record until such time as appropriate instruction to the contrary is received.

The application file is being forwarded to Technology Center 1700 for re-mailing of the non-final Office action. The time period for reply will be set in the re-mailed Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Paul J. Maginot
Maginot, Moore & Beck
Chase 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

JJGJR.: 07-07

Paper No: __

H. ROY BERKENSTOCK
WYATT TARRANT & COMBS LLP.
1715 AARON BRENNER DRIVE
SUITE 800
MEMPHIS TN 38120-4367

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of :
Leonard, et al. :
Application No. 10/103,447 : DECISION
Filing Date: 21 March, 2002 :
Attorney Docket No.: A02059US :

This is a decision on the petition filed on 25 September, 2006, seeking withdrawal of the holding of abandonment under 37 C.F.R. §1.181.[1]

The Office regrets the delay in addressing this matter, however, it was presented for review by the attorneys in the Office of Petitions only at this writing.

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

NOTES:

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.

[1] Petitioner indicates by telephone that he filed on or about 1 March, 2007, a petition under 37 C.F.R. §1.137, however, at this writing there is no indication in PALM or IFW of the presence of that additional petition.

(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. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[2]

BACKGROUND

The record reflects that:

- Applicant failed to reply timely and properly to the final Office action mailed on 9 May, 2005, with reply due absent and extension of time on or 9 August, 2005;
- on 11 August, 2005, Petitioner filed an after-final reply (over an 8 August, 2005, certificate of mail) which the Examiner found not to be a proper reply (in that it did not *prima facie* place the application in condition for allowance[3]), and mailed an Advisory Action on 12 September, 2005;
- on 3 October, 2005, Petitioner filed a second after-final reply, however, the submission does not appear to have been timely in that Petitioner does not appear to have requested and paid/authorized the fee for an extension of time to accomplish that;
- the instant application went abandoned after midnight 9 August, 2005;
- the Office mailed a Notice of Abandonment on 18 August, 2006, along with an interview summary indicating, *inter alia*, Petitioner was reminded of the abandonment;

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[2] 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.

[3] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or RCE (with fee and submission). (See: MPEP §711.03(c).)

- on 25 September, 2006, Petitioner filed the instant request to withdraw the holding of abandonment.

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 are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[4]

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

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

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

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

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).[5]

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.[6]

Delays in responding properly raise the question whether delays are unavoidable.[7] 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).[8] And the Petitioner must be diligent in attending to the matter.[9] 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.[10]))

(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]

[5] 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.

[6] 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.

[7] 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).

[8] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[9] 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.

[10] 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 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.[11]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512.

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

> As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

And the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

Petitioner appears not to have satisfied the showing requirement described above.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

It appears that, because Petitioner failed to seek timely relief under the rule, Petitioner's only alternative to irretrievable abandonment may be petition alleging unavoidable or unintentional delay, respectively, under 37 C.F.R. §1.137(a) or (b).[12]

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unavoidable or unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[13]

By mail: Commissioner for Patents[14]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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

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[12] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

[13] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[14] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[15]) 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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[15] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

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

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

H. ROY BERKENSTOCK
WYATT TARRANT & COMBS LLP.
1715 AARON BRENNER DRIVE
SUITE 800
MEMPHIS TN 38120-4367

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OFFICE OF PETITIONS

In re Application of
Leonard, et al.
Application No. 10/103,447
Filed: 21 1March, 2002
Attorney Docket A02059US

DECISION

This is a decision on the petition filed on 1 August, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, no terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, as discussed below.

BACKGROUND

The record reflects that:

Applicant failed to reply timely and properly to the final Office action mailed on 9 May, 2005, with reply due absent and extension of time on or 9 August, 2005.

On 11 August, 2005, Petitioner filed an after-final reply (over an 8 August, 2005, certificate of mail) which the Examiner found not to be a proper reply (in that it did not *prima facie* place the application in condition for allowance[3]), and mailed an Advisory Action on 12 September, 2005.

On 3 October, 2005, Petitioner filed a second after-final reply, however, the submission does not appear to have been timely in that Petitioner does not appear to have requested and paid/authorized the fee for an extension of time to accomplish that.

The instant application went abandoned after midnight 9 August, 2005.

The Office mailed a Notice of Abandonment on 18 August, 2006, along with an interview summary indicating, *inter alia*, Petitioner was reminded of the abandonment.

On 25 September, 2006, Petitioner filed a request to withdraw the holding of abandonment, which was dismissed on 16 July, 2007, for failure to satisfy the showing set forth in the Commentary at MPEP §711.03(c).

On 1 August, 2007, Petitioner filed the instant petition with fee, supplemented it on 8 May, 2008, and, *inter alia*, a reply (now) in the form of a request for continued examination (RCE) and fee with an amendment as the submission under 37 C.F.R. §1.114, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts

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[3] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or RCE (with fee and submission). (See: MPEP §711.03(c).)

of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

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).

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.[2],[3]

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/Au 1614 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected—that does not occur in the Office of Petitions.

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

[2] 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).

[3] 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. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. 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) And the Petitioner must be diligent in attending to the matter. 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.))

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

[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
Washington, D.C. 20231
www.uspto.gov

Paper No. 13

JONATHAN QUINE
QUINE INTELLECTUAL PROPERTY LAW GROUP
2033 CLEMENT AVE., SUITE 200
ALAMEDA, CA 94501

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OFFICE OF PETITIONS

In re Application of
Monto Hiroshi Kumagai et al
Application No. 10/103,450
Filed: March 20, 2002
Attorney Docket No. 00801.0086.CNUS03

: 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 March 6, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications, set forth in the amendment filed March 6, 2003.

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

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

additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on March 20, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

As to the request for a corrected Filing Receipt to add Laurence K. Grill as an inventor, it is noted that the application was filed with a copy of an executed oath/declaration from prior-filed nonprovisional Application No. 08/260,546, which sets forth the inventive entity as Kumagai; Della-Cioppa; Donson; and Harvey. In a communication received on April 29, 2002, applicant requested that the concurrently filed oath/declaration be substituted for the oath/declaration previously submitted with the application on March 20, 2002.

37 CFR 1.48(f) states that the first-filed executed declaration sets forth the inventive entity of the application. Therefore, since the oath/declaration received on March 20, 2002 was executed and was the first-filed oath/declaration, the inventorship is that set forth in the

March 20, 2002 oath/declaration. If applicant wishes to now add Grill as an inventor, applicant must now file a petition under 37 CFR 1.48(a) or, alternatively, to refile the application.

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

This application is being forwarded to Technology Center Art Unit 1636 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 11

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OFFICE OF PETITIONS

Bingham, McCutchen LLP
Three Embarcadero, Suite 1800
San Francisco, CA 94111-4067

In re Application of :
Lawrence E. Tannas :
Application No. 10/103,473 : DECISION ON PETITION
Filed: March 20, 2002 :
Attorney Docket No. 269/155 :

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

The petition is **granted**.

This application became abandoned on December 4, 2002, for failure to timely file an appropriate response to the non-final Office action mailed September 3, 2002, which set a shortened 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 December 4, 2002.

The application is being forward to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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Vista IP Law Group LLP
2040 MAIN STREET, 9TH FLOOR
IRVINE CA 92614

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MAY 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Lawrence E. Tannas, Jr. :
Application No. 10/103,473 : DECISION ON PETITION
Filed: March 30, 2002 : TO MAKE SPECIAL UNDER
Attorney Docket No. TNS-003 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 21, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of the applicant's drivers license proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2871 for action on the merits commensurate with this decision.

Terri Williams
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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Paper No. 6

MCDONNELL BOEHNEN
HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Bella et al.	:	
Application No. 10/103,478	:	DECISION GRANTING PETITION
Filed: 21 March, 2002	:	
Attorney Docket No. 02-050	:	

This is a decision on the petition, filed on 19 May, 2003, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an international application filed on 12 March, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of 30 October, 2003, accompanies this decision on petition.

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

Any inquiries concerning this decision may be directed to the undersigned at 703.308.6918.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice Regarding Recission of Nonpublication Request

DATE 10/10/07 APPLICATION NUMBER 10103441

DOC CODE PETDEC DOC DATE _____

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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Alexandria, VA 22313-1450
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LAWRENCE BERKELEY NATIONAL LABORATORY
ONE CYCLOTRON ROAD, MAIL STOP 90B
UNIVERSITY OF CALIFORNIA
BERKELEY CA 94720

COPY MAILED

OCT 1 1 2007

OFFICE OF PETITIONS

In re Patent No. 6794522 :
Issue Date: 09/21/2004 :
Application No. 10/103481 : NOTICE
Filed: 03/21/2002 :
Attorney Docket No. IB-1698 :

This is in response to the "NOTIFICATION OF LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS PURSUANT TO 37 C.F.R. § 1.27(g)(2) and 1.366(f)" filed on 7 September, 2007, requesting acceptance of a fee deficiency under 37 CFR 1.28, which is being treated under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

Petitioner requests that a fee deficiency for the issue fee be accepted. A review of Office financial records indicates that the issue fee was paid on 2 March, 2004, however, in the large entity amount. Accordingly, no fee deficiency is due.

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.

In accordance with the above request, status as a Small Entity has been removed.

Telephone inquiries may be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

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AUG 14 2008

OFFICE OF PETITIONS

In re Application of :
David William Balsdon :
Application No. 10/103,489 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 2002P05054US :

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2008, to revive the above-identified application.

The application became abandoned for failure to timely file a reply to the final Office action mailed January 18, 2007. A Notice of Abandonment was mailed on September 7, 2007.

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 John M. Siragusa appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

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 with the $510 fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3753 for consideration of the Pre-Appeal Brief Conference Request filed on March 3, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 4

Ormiston & McKinney, PLLC
802 W. Bannock, Suite 400
P. O. Box 298
Boise, Idaho 83701-0298

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FEB 0 6 2004

Technology Center 2100

In re Application of: S. Ramanujam et al.	)	
Application No. 10/103,491	)	
Filed: March 20, 2001	)	
For: SYNCHRONIZING DATA SHARED BETWEEN TWO DEVICES INDEPENDENT OF ANY OTHER DEVICES THAT MAY ALSO SHARE THE DATA	)	DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision on the petition, filed January 22, 2004, requesting to make the above-identified application special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(h) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims.

Applicants' submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of	:	
Jeremy C. Herr	:	
Application No. 10/103,510	:	DECISION ON PETITION
Patent No. 6,839,149	:	PURSUANT TO
Filed: March 21, 2002	:	37 C.F.R. § 3.81(B)
Issue Date: January 4, 2005	:	
Attorney Docket Number: 10379-3US	:	
Title: PREPARATION OF PRODUCTION DATA FOR A PRINT JOB USING A STILL IMAGE PROXY OF A PAGE DESCRIPTION LANGUAGE IMAGE FILE	:	

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b)[1], filed October 10, 2007, to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

Petitioner states that a typographical error appears on form PTOL-85(b), and that the assignee's name was not listed properly: "the assignee noted was not the correct assignee[2]."

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

(b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue

1 See Official Gazette, June 22, 2004.
2 Petition, paragraph number 2.

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 present request pursuant to 37 C.F.R. § 3.81(b) was accompanied by the petition fee, a request for a certificate of correction, a copy of the assignment, and a copy of the notice of recordation that establishes that the assignment (that contains the correct assignee) was recorded in the Office on September 17, 2007.

Petitioner has failed to comply with the provisions of this title, and as such, the request cannot be granted. It is clear if the assignment was not submitted for recordation as set forth in 37 C.F.R. § 3.11 before the issuance of this patent. The patent issued on January 4, 2005, and the assignment was not submitted for recordation until more than 2½ years had passed.

Hence, the petition must be **DISMISSED**.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 3.81(b)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[3], hand-delivery[4], or facsimile[5]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[6].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

---

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[7]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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MAY 1 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jong-Lam Lee, et al. :
Application No. 10/103,523 :
Filed: March 22, 2002 :
Attorney Docket No. 9323.028.00-US :

This is a decision on the petition, filed May 6, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed July 3, 2003, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On May 6, 2004, an amendment and the present petition were filed.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 1763 for consideration of the amendment filed May 6, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of
REYNOLDS, et al.
Application No. 10/103,545
Filed: March 20, 2002
Attorney Docket No. 577172001000

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 16, 2006.

The request is **NOT APPROVED**.

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NIXON PEABODY LLP**
401 9TH STREET NW, SUITE 900
WASHINGTON, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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JUL 0 5 2007

OFFICE OF PETITIONS

In re Application of :
REYNOLDS, et al. :
Application No. 10/103,545 :
Filed: March 20, 2002 :
Attorney Docket No. **577172001000** :

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.

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 REYNOLDS**
1568 MEYERWOOD CIRCLE
LITTLETON, CO 80129

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/103/589

Paper No.: _____

DATE : 11/16/04

TO SPE OF : ART UNIT 2862

SUBJECT : Request for Certificate of Correction on Patent No.: 6731108 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

_____

_____

_____

_____

_____

SPE

2862
Art Unit

10/1035490

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/7/05

TO SPE OF : ART UNIT 1725

SUBJECT : Request for Certificate of Correction on Patent No.: 6749105

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.

Formal Drawings

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:

Jonathan Johnson — SPE

1725 — Art Unit

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

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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JUL 29 2002

OFFICE OF PETITIONS

In re Application of : DECISION GRANTING
Wesley Skorski : PETITION
Application No. 10/103,592 :
Filed: March 20, 2002 :
Attorney Docket No. 03378-P0004B :

This is a decision on the petition filed May 20, 2002, to accord the above-identified application a filing date of May 20, 2002, instead of May 21, 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 20, 2002.

A corrected filing receipt showing the filing date of March 20, 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 20, 2002. Afterwards, the application will be forwarded to Technology Center Art Unit 2122 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

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Paper 5

LISA A. GLICKEN
1101 SEVILLE PLACE
ORLANDO FL 32804

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NOV 3 0 2004

OFFICE OF PETITIONS

In re Application of
Lisa Ann Glicken
Application No. 10/103,604
Filed: March 21, 2002
Title of Invention: PEAK DEMAND FLOW CONTROLLER FOR WATER CONSERVATION

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed November 3, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned on August 6, 2003, for failure to pay the issue fee in response to the Notice of Allowance mailed May 5, 2003 and which set a three (3) month period for reply. Accordingly, a Notice of Abandonment was mailed September 12, 2003.

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

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

(2) the petition fee as set forth in § 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (3) above.

With regard to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Petitioner asserts financial difficulties as a basis for unavoidable delay. A showing of unavoidable delay based upon financial condition must establish that the financial

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

condition of the petitioner during the **entire** period of the delay was such as to excuse the delay.[3] In order to establish unavoidable delay based on financial difficulty, petitioner must provide a showing of the responsible person's financial condition at the time, including income, expenses, assets, credit, and obligations, which made the delay in payment of the fee unavoidable. Petitioner must provide copies of any documents or records that would confirm the financial difficulty.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b),[4] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). A petition under 37 CFR 1.137 (b) also carries with it a petition fee of $685.00 for a small entity and $1370.00 for a large entity and the $55.00 petition fee paid with the instant petition is cannot be credited towards the fee for the petition under 37 CFR 1.137(a), if petitioner chooses to file such.

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[3] Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

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

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

Petitioner should also note, the three periods to be considered during the evaluation of a petition under 37 C.F.R. §1.137(a) or (b) are the delay in:

(1) reply that originally resulted in abandonment and from the abandonment until discovery thereof;

(2) filing an initial petition pursuant to §1.137(b) to revive the application; and

(3) filing a *grantable* petition pursuant to §1.137(b) to revive the application.[5]

In summary, although the circumstances described by petitioner are most unfortunate, they do not constitute a showing of unavoidable delay. The petition will therefore be dismissed.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[5] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 at 53158 (10 October, 1997).

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OFFICE OF PETITIONS

In re Application of :
Stone, et al. : DECISION ON PETITION
Application No. 10/103,613 :
Filed: March 21, 2002 :
Attorney Docket No. (CROL-0150) :
082066-0166

This is a decision on the petition filed August 20, 2007, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely file an Appeal Brief. Applicants filed a Notice of Appeal on January 11, 2007. No Appeal Brief having been filed, the application became abandoned on March 12, 2007. The last day an Appeal Brief could have been filed, with the maximum available five month extension of time, would have been on August 11, 2007. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an RCE.

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 $1080.00 extension of time fee submitted with the petition on August 20, 2007 was subsequent to the maximum period obtainable for reply (August 11, 2007), this fee has been refunded to petitioner's Deposit Account 19-0741.

The matter is being forwarded to Group Art Unit 1657 for consideration of the RCE filed August 20, 2007.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Patent No. 6,768,555 :
Issue Date: July 27, 2004 :
Application No. 10/103,619 : ON PETITION
Filed: March 21, 2002 :
Attorney Docket Number: 681954-88US :

This is a decision on the petition, filed December 15, 2005, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about July 27, 2004, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

Petitioners state that they have confirmed that the Letters Patent was never received from the previous attorneys of record. Petitioner however is not alleging USPTO error for the failure to receive the Letters Patent, and therefore have paid the required petition in the amount of $400.00. In view thereof, a copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

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

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Publishing Division at (703) 308-9250.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Krystal Paige South Tower, 8th Floor (Fax – (571) 273-9756)

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DR MARK FRIEDMAN LTD
C/O POLKINGHORN
9003 FLORIN WAY
UPPER MARLBORO MD 20772

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OFFICE OF PETITIONS

In re Application of :
Jascau, et al. :
Application No. 10/103,625 : ON PETITION
Filed: March 21, 2002 :
Attorney Docket No. 2808/62 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 13, 2006.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to file a proper reply to the final Office action mailed September 8, 2005. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the application became abandoned on December 9, 2005. A Notice of Abandonment was mailed on May 19, 2006.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the **docket record** where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

Petitioner has not supplied a copy of the docket record from the prior law firm of record, evidencing non-receipt of the final Office action mailed September 8, 2005.

If petitioner can not establish that the final Office action was not received at the prior law firm of record, petitioner may revive the application pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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

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

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[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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

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OFFICE OF PETITIONS

In re Application of :
Jascau, et al. :
Application No. 10/103,625 : ON PETITION
Filed: March 21, 2002 :
Attorney Docket No. 2808/62 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed December 31, 2007.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to file a proper reply to the final Office action mailed September 8, 2005. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the application became abandoned on December 9, 2005. A Notice of Abandonment was mailed on May 19, 2006. Applicants filed a petition to withdraw the holding of abandonment on July 13, 2006. However, the petition was dismissed in a decision mailed on October 16, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition lacks item (2), the required reply. The amendment submitted with the petition does not place the application in condition for allowance.

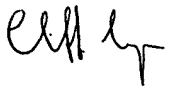
On renewed petition, petitioner must submit a proper reply in response to the final Office action mailed September 8, 2005. The proposed reply to a final Office action required for consideration of a petition to revive must be either (1) a Notice of Appeal (and fee required by law); (2) the filing of a continuing application under 37 CFR 1.53(b) or if applicable, 1.53(d); or (3) a request for a continuing examination (RCE) under 37 CFR 1.114.

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

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400 Main Street
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East Hartford, CT 06108

In re Application of: John A. Szymbor :
Appl. No.: 10/103629 : DECISION ON PETITION
Filed: March 20, 2002 :
For: Bristle Arrangement for Brush Seal :
Attorney Docket No.: EH-10602 :

This is a decision on the petition filed on September 14, 2004 by which petitioners requested reconsideration and withdrawal of the final decision of the Examiner requiring restriction of claims 18-23 in the Office action dated August 24, 2004. The petition is considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is granted.

Review of the application and of the claims mandates that the restriction requirement, *by defacto*, be withdrawn.

As contended by Applicant, the "Examiner asserts that the application contains two inventions: (1) claims 4-17 drawn to originally presented invention of a bristle arrangement that stays the same size, and (2) claims 8-24 drawn to a bristle arrangement that changes size."

The requirement was first presented in the final Office action dated February 26, 2004 as a result of new claims 18-23 submitted in the amendment dated December 23, 2003. The Examiner held Applicant to the original presentation of claims that were examined in the Office action dated September 24, 2003 for reasons stated above.

In an amendment dated July 19, 2004, Applicant presented new claim 24, which was grouped with claims 18-23 and held withdrawn from further consideration in the Officer action dated August 24, 2004 for the same reasons.

In an amendment dated November 15, 2004, Applicant misstated that claim 24 was both rejected and withdrawn.

In the final rejection dated January 27, 2005, the Examiner maintained the withdrawal of claims 18-23, but indicated claims 24 to be allowable.

On September 6, 2005, a Notice of Allowability was rendered indicating that claim 4-8, 10-13, 24 and 25 were allowed.

Since claim 24 is specific for the alleged non-elected invention and was issued as claim 5 in U.S. Patent No. 6,996,885 on February 14, 2006 along with claims to the alleged elected invention, the restriction requirement, *by defacto,* is considered withdrawn by the inadvertent issuance of claims to both alleged inventions.

It is to be pointed out that any claims submitted in a divisional application as a result of the restriction requirement made in this application that conflict with claim 5 of U.S. Patent No. 6,996,885 shall not be subject to the prohibition of double patenting under 35 U.S.C. 121.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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OFFICE OF PETITIONS

In re Application of :
Jeffrey Flood :
Application No. 10/103,649 : ON PETITION
Filed: March 21, 2002 :
Attorney Docket No. 2695.01US03 :

This is a decision on the petition, filed February 1, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 23, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 24, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; **(2) the petition fee as set forth in 37 CFR 1.17(m);** (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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).

The Office records show the $750 (small entity) Petition to Revive Under 37 CFR 1.137(b) Fee has not been received.

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

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

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

By facsimile: (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

(MHB)

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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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FEB 16 2005
OFFICE OF PETITIONS

In re Application of	:	
Jeffrey Flood	:	
Application No. 10/103,649	:	ON PETITION
Filed: March 21, 2002	:	
Attorney Docket No. 2695.01US03	:	

This is a decision on the petition, filed February 1, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 23, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 24, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; **(2) the petition fee as set forth in 37 CFR 1.17(m);** (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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).

The Office records show the $750 (small entity) Petition to Revive Under 37 CFR 1.137(b) Fee has not been received.

Transferred

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

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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

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jeffrey Flood :
Application No. 10/103,649 :
Filed: March 21, 2002 :
Attorney Docket No. 2695.01US03 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being forwarded to Technology Center AU 1723 for further processing.

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

cc:

Gerald E. Helget
Briggs and Morgan, P.A.
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Mark W. Hunter	: DECISION ON REQUEST FOR
Patent Number	: 7657300	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/103,685	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1400** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **12/1/2008**

TO SPE OF : ART UNIT **1644 (1600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/103,686** Patent No.: **7,223,392**

Attn: Phuong Huynh

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)
South Tower - 9A22
Palm Location 7580

***ATTN: Ok to enter changes to sequence listing as requested in the COCIN?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

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: _____ **OK to enter.**

It looks like the Office printed the wrong version of the sequence listing in the issued patent. The correct version of the sequence listing should have been the latest one that was filed 6/28/04. Please replace the sequence listing in the patent with the sequence listing filed 11/13/08, which is the same as the sequence listing filed 6/28/04. As such, no new matter is introduced and no scope and/or the

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

meaning of the claims have been changed. PNH

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **12/1/2008**

TO SPE OF : ART UNIT **1644 (1600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/103,686** Patent No.: **7,223,392**

Attn: Phuong Huynh

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)
South Tower - 9A22
Palm Location 7580

***ATTN: Ok to enter changes to sequence listing as requested in the COCIN?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

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: _____ OK to enter.

It looks like the Office printed the wrong version of the sequence listing in the issued patent. The correct version of the sequence listing should have been the latest one that was filed 6/28/04. Please replace the sequence listing in the patent with the sequence listing filed 11/13/08, which is the same as the sequence listing filed 6/28/04. As such, no new matter is introduced and no scope and/or the

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

meaning of the claims have been changed. PNH

Eileen B. O'Hara SPE AU 1644

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

Date: 12/15/08

Patent No. : 7454614 B2
Ser. No. : 10/103,774
Inventor(s) : KROEGER, THOMAS
Issued : 11/18/08
Title : **METHOD AND APPARATUS FOR FAULT TOLERANT TCP HANDSHAKING**
Docket No. : **730.39962X00**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

By fax: (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.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 308-9390 #112

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

LMN

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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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

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DEC 02 2009

OFFICE OF PETITIONS

In re Patent No. 7,454,614 :
Issue Date: November 18, 2008 :
Application No. 10/103,774 : ON PETITION
Filed: March 25, 2002 :
Attorney Docket No. 004770.00592 :

This is a decision on the petition filed October 7, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 10-04

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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OCT 19 2004

OFFICE OF PETITIONS

In re Application of :
Rajasekharan et al. :
Application No. 10/103,777 : DECISION ON PETITION
Filed: 25 March, 2002 :
For: METHOD AND SYSTEM FOR :
AUTHORING AND PLAYBACK OF
AUDIO COINCIDENT WITH LABEL
DETECTION

This is a decision in reference to the third party petition styled under 37 CFR 1.181-1.183 on 22 April, 2004, and the reply by applicants thereto filed on 15 June, 2004.

The petition is dismissed.

A paper on behalf of a third party to the above-identified application was filed on 22 April, 2004, requesting that the third party be recognized as a party in interest in this application.

A paper in opposition thereto was filed on 15 June, 2004.

The Office has promulgated regulations permitting third parties to file protests and petitions for public use proceedings in applications that have not been published under 35 U.S.C. § 122(b) and 37 CFR 1.211 et seq. (37 CFR 1.291 and 1.292) and to file prior art submissions in applications that have been published under 35 U.S.C. § 122(b) and 37 CFR 1.211 et seq. (37 CFR 1.99). That the Office does permit a third party to file certain papers in an application does not afford a third party with standing to challenge Office decisions in that application. Cf. Boeing Co. v. Commissioner of Patents and Trademarks, 853 F.2d 878, 881, 7 USPQ2d 1487, 1489 (Fed. Cir. 1988)(that a third party is permitted to participate in district

court action concerning a reexamination proceeding does not imply that the third party has standing to appeal a district court decision favorable to patent owner).[1]

Petitioner lacks standing to request that the Office recognize petitioner as a party in interest in the above-identified application. Accordingly, the third-party petition filed on 22 April, 2004, is **dismissed.**

This decision is being copied to Rattan Nath, Jones Day, 222 East 41st Street, New York, NY 10017. However, no further correspondence concerning the above-identified application will be undertaken with Jones Day.[2]

Petitioner's representative is placed on notice that the Office considers the filing of a petition or other paper on behalf of a party having no standing in an application, and not otherwise authorized by the rules of practice, to be a petition or paper presented for an improper purpose (37 CFR 10.18). For example, the filing of a paper on behalf of a party in situations not authorized by the rules of practice delays the examination and processing of applications, which may cause harm to the general public if it results in the Office missing any one of the examination time frames specified in 35 U.S.C. §§ 154(b)(1)(A) or 154(b)(1)(B). Therefore, the Office may refer any further third party petitions in this or any other application to the Office of Enrollment and Discipline for appropriate action.

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[1]Further, the Court of Appeals for the Federal Circuit (Federal Circuit) has refused to accord standing to third parties challenging Office actions (outside of the an interference) during the prosecution of an application for patent. See Animal Legal Defense Fund, 932 F.2d 920, 930, 18 USPQ2d 1677, 1685 ("We find nothing in the law which gives rise to a right in nonapplicants to object to the way in which patent applications of others are prosecuted. A third party has no right to intervene in the prosecution of a particular patent application to prevent the issuance of an allegedly invalid patent").

[2]See 37 CFR 1.291(c).

Telephone inquiries related to this decision should be addressed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

The above-identified application is being forwarded to Technology Center 2800 for further processing.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: RATTAN NATH
JONES DAY
222 EAST 41ST STREET
NEW YORK NY 10017

#4
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 31 2003

OFFICE OF THE DIRECTOR
TC 3600

Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420

In re application of
Stuart Lee Claggett et al.
Application No. 10/103,784 : DECISION ON REQUEST
Filed: March 25, 2002 : FOR WITHDRAWAL OF
For: SYSTEM AND METHOD TO BUILD : ATTORNEY
PROJECT MANAGEMENT PROCESSES

This is a decision on the request filed on March 6, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

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

As to condition 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, since this office does not recognize law firms.

As to condition B), given the statements included in the request that the firm "is closing down the patent prosecution practice and all patent practitioners are leaving" and "the firm will no longer be handling any patent prosecution work"; it is not clear that the statements satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). Simply because the law firm will no longer be handling any patent prosecution work, that does not automatically meet one of the acceptable reasons for an attorney withdrawal. Condition B) can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).

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

SNM/tpl: 3/26/03

gmH/JDG

SEP 22 1995

E4800.001/P001

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

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JC845 U.S. PTO
10/103814
03/25/02

COPY

Dickstein, Shapiro & Morin
2101 L. Street, N.W.
Washington, D.C. 20037

In re Application of :
Reed, Greenhalgh, Carlton, Good, Holzman, :
Kester, Munevar, Bestick, Bastin, Frank, :
Holman, Jensen, Maatman and Rogers : DECISION ON PETITION
Application No. 08/202,985 :
Filed: February 28, 1994 :
For: MULTIMEDIA SEARCH SYSTEM :

This is a decision on the petition under 37 CFR 1.47(a) filed on August 29, 1994, requesting that the application be accepted without the signatures of inventors Reed, Good, Munevar and Rogers and the petition for granting filing date filed on September 11, 1995, requesting that the application be accorded a filing date of February 28, 1994.

This application was deposited on February 28, 1994 naming Reed, Greenhalgh, Carlton, Good, Holzman, Kester, Munevar, Bestick, Bastin, Frank, Holman, Jensen, Maatman and Rogers as joint inventors but without an oath or Declaration. On March 18, 1994, Application Branch mailed a "Notice To File Missing Parts..." requiring a Declaration signed by the inventors complying with 37 CFR 1.63 along with the surcharge.

On August 29, 1994, applicants submitted Declarations signed by inventors Greenhalgh, Carlton, Holzman, Kester, Bestick, Bastin, Frank, Holman, Jensen and Maatman on behalf of themselves and on behalf of the non-signing inventors in compliance with 37 CFR 1.63. Papers filed on August 29, 1994 also included:

(1) a petition under 37 CFR 1.47(a) with the required petition fee and the surcharge;

(2) a declaration of facts of Jon D. Grossman setting forth the last known addresses of the non-signing inventors;

(3) exhibits providing proof of the presentation of the application papers to the non-signing inventors for review; and

(4) a petition for extension of time with fee.

On January 19, 1995, Application Branch mailed a "Notice of Abandonment" stating that the application is abandoned for failure to respond to the notice dated March 18, 1994.

The notice dated January 19, 1995 was mailed in error and is hereby WITHDRAWN.

A review of the application papers deposited on February 28, 1994 shows that the application is prima facie incomplete and no filing date should have been granted to the application since page 1

of the specification is missing. Pursuant to a telephone conversation between the undersigned and Mr. Grossman, Mr. Grossman was notified of the omission of page 1 and it was noted that applicant may file a petition along with the petition fee, requesting that the application be accorded a filing date of February 28, 1994 and that page 1 is not necessary for the understanding of the subject matter sought to be patented.

On September 11, 1995, applicant submitted a petition for granting filing date along with a preliminary amendment.

The petition requesting that the application be accorded a filing date of February 28, 1994 is GRANTED. The preliminary amendment will be entered in due course.

The petition under 37 CFR 1.47(a) is GRANTED. This application is hereby accorded Rule 1.47(a) status and Application Branch is authorized to

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

(2) process the application with the inventors being Reed, Greenhalgh, Carlton, Good, Holzman, Kester, Munevar, Bestick, Bastin, Frank, Holman, Jensen, Maatman and Rogers, using the Declarations filed on August 29, 1994; and

(3) mail a filing receipt with a filing date of February 28, 1994.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to non-signing inventors Reed, Good, Munevar and Rogers at the addresses given in the petition. Should such notices be returned undelivered, it should be returned to the Office of the Deputy Assistant Commissioner for Patent Policy and Projects and notice of the filing of this application will be published in the Official Gazette when said application is ready for issue and is returned to this Office for review of its Rule 1.47(a) status.

This application is not relieved of its Rule 1.47(a) status and must be returned to the Office of the Deputy Assistant Commissioner for Patent Policy and Projects after mailing any "Notice of Allowability" or "Notice of Allowance and Issue Fee Due" for review of its Rule 1.47(a) status.

After the mailing of this decision, the application will be forwarded to the Office of Finance to charge the petition fee of $130 (petition for granting filing date) to counsel's deposit account no. 04-1073 per counsel's authorization in the transmittal letter.

Thereafter, the application will be returned to Application Branch for processing as a Rule 1.47 application as noted above.

Magdalen Y.C. Greenlief
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant 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
www.uspto.gov

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MAR 16 2010

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

In re Patent No. 6,978,277
Issue Date: December 20, 2005
Application No. 10/103,814
Filed: March 25, 2002
Attorney Docket No. E4800.0020/P001-C

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition, filed June 11, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 08/202,985, filed February 28, 1994, by way of a certificate of correction.

The petition is **DISMISSED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed March 25, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

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

The certificate of correction fee of $100.00 under 37 CFR 1.20(a) was not submitted with 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 Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

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MAY 14 2010

OFFICE OF PETITIONS

In re Patent No. 6,978,277	:	DECISION DISMISSING PETITION
Issue Date: December 20, 2005	:	UNDER 37 CFR 1.78(a)(3) AND
Application No. 10/103,814	:	REQUEST FOR CERTIFICATE OF
Filed: March 25, 2002	:	CORRECTION
Attorney Docket No. E4800.0020/P001-C	:	

This is a decision on the renewed petition, filed April 20, 2010, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 08/202,985, filed February 28, 1994, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed March 25, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

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

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

As authorized, the $1,410.00 surcharge fee, as well as the $100 certificate of correction fee, has been charged to the application.

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

/Thurman K. Page/

Thurman K. Page
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
10/103,814	03/25/2002	2161	2114	E4800.0020/P001-C	47	10

CONFIRMATION NO. 5790

CORRECTED FILING RECEIPT

24998
DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Date Mailed: 05/13/2010

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)

Michael Reed, Chicago, IL;
Carol Greenhalgh, Austin, TX;
Ron Carlton, San Marcos, CA;
Dale Good, Evanston, IL;
Carl Holzman, Chicago, IL;
Harold Kester, Olivewhain, CA;
Edwardo Munevar, San Diego, CA;
Greg Bestick, San Mateo, CA;
Norman J. Bastin, Chicago, IL;
Stanley D. Frank, Chicago, IL;
Neil Holman, Buffalo Grove, IL;
Ann Jensen, Austin, TX;
Gail B. Maatman, Hollidaysburg, PA;
Derryl Rogers, Carlsbad, CA;

Power of Attorney:
Jon Grossman--32699

Domestic Priority data as claimed by applicant

This application is a CON of 08/202,985 02/28/1994 PAT 6,546,399
which is a CON of 08/113,955 08/31/1993 ABN
which is a CON of 07/426,917 10/26/1989 PAT 5,241,671
and said 08/202,985 02/28/1994
is a CON of 07/848,960 06/26/1992 ABN
which is a CIP of 07/426,917 10/26/1989 PAT 5,241,671

Foreign Applications
UNITED STATES OF AMERICA PCT/US90/06098 10/26/1990

If Required, Foreign Filing License Granted: 04/26/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/103,814**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

MULTIMEDIA SEARCH SYSTEM

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific

countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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STOLOWITZ FORD COWGER LLP
621 SW MORRISON ST
SUITE 600
PORTLAND, OR 97205

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Liu, Linda	:	
Application No. 10/103,834	:	DECISION ON PETITION
Filed: March 25, 2002	:	
Attorney Docket No. 9585-0339	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

This matter is being referred to Technology Center 2625 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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JUN 27 2006

TECHNOLOGY CENTER 3600

Paper No. 11

In re Patent No. 6,629,656, MORITA et al.
Issue Date: October 7, 2003
Appl No.: 10/103,857
Filed: March 25, 2002
For: MAGNETIC TAPE CARTRIDGE

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed March 5, 2004, 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.

Katherine Matecki

Katherine Matecki
Supervisory Patent Examiner
Art Unit 3654
Technology Center 3600

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: May 19, 2006
TO: Certificates of Correction Branch
FROM: Katherine Matecki
SPE, Art Unit 3654
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,629,656 as specified on the attached Certificate.

Katherine Matecki

Katherine Matecki, SPE
Art Unit 3654

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,629,656
Patented: October 7, 2003

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship by naming Jeffrey S. McAllister, Thomas Albrecht, and Robert Ralph Heinze as co-inventors. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Kiyoo Morita, Hideaki Shiga, Daisuke Takahashi, Yusuke Ishihara, and Seiji Tsuyuki

Katherine Matecki

Katherine Matecki
Supervisory Patent Examiner
Art Unit 3654

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MENDELSOHN & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA PA 19102

In re Application of:
Adriaan Kamerman, et al.
Application Serial No.: 10/103,866
Filed: March 25, 2002
For: **METHOD OF DYNAMICALLY SETTING AT LEAST ONE THRESHOLD AT AN ACCESS POINT IN A WIRELESS LOCAL AREA NETWORK AND THE ACCESS POINT**

DECISION
ON PETITION

This is a decision on the petition requesting withdrawal of the final action, filed November 2, 2006, pursuant to 37 CFR § 1.181.

Petitioner alleges that the examiner erred in holding the Office action mailed August 22, 2006 final and requests withdrawal of finality of the Office action.

PERTINENT BACKGROUND INFORMATION

A non-final Office action was mailed on March 27, 2006 rejecting claims 1, 7-8, 10, 14, and 17-21 under 35 USC 102 as being anticipated by Johnson (EP 1,107,628 A2); and rejecting claim 2 under 35 USC 103 as being unpatentable over Johnson in view of Pinard et al. (US Patent No. 6,580,700); and rejecting claims 15-16 under 35 USC 103 as being unpatentable over Johnson in view of Kamerman (US Patent No. 6,067,291). Claims 3-6, 9, and 11-13 were objected to but indicated as containing allowable subject matter.

Applicant filed an amendment on June 9, 2006 wherein only dependent claims 5-6 and 22-23 were amended. Claims 17-21 were canceled and new claims 24-30 were added.

On August 22, 2006, the Examiner made a Final Office action rejecting claims 1, 3, 7-8, 10-11, 13-14, 24-26, 29, and 30 under 35 USC 102 as being anticipated by Johnson (EP 1,107,628 A2); and rejecting claim 2 under 35 USC 103 as being unpatentable over Johnson in view of Pinard et al. (US Patent No. 6,580,700); and rejecting claims 15-16 under 35 USC 103 as being unpatentable over Johnson in view of Kamerman (US Patent No. 6,067,291). Claims 4-6, 9, 12, and 27-28 were objected to but indicated as containing allowable subject matter and claims 22-23 were allowed.

On November 2, 2006, a petition to withdraw the holding of finality of the final rejection dated August 22, 2006 was filed. Along with the instant petition, on November 2, 2006, applicant also filed a Conditional Request for Continued Examination (RCE). In the petition accompanying the RCE, applicant requests that if the petition is granted, then the amendment dated September 18, 2006 should be entered or if the petition is denied, then applicant requests entry of the RCE.

DECISION

It is noted that at the examiner erred in making the Office action mailed August 22, 2006 final; inasmuch as the rejection of claims 3, 9 and 13 were a "new grounds of rejection" that were not necessitated by amendment.

Regardless, the issue became moot with applicant's filing of an RCE on November 2, 2006. The filing of a "conditional RCE" is not permitted. In accordance with MPEP 706.07(h), a "conditional" RCE is treated as an RCE. Accordingly, the RCE filed November 2, 2006 has been processed.

For the reasons set forth above, the petition to withdraw finality is **DISMISSED AS MOOT.**

The application was forwarded to the examiner for new and appropriate action responsive to the RCE filed November 2, 2006. Furthermore, a review of the file finds that a non-final Office action was mailed on January 24, 2007. The time period for response continues to run.

Jin Ng, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Shigeo Kubota et al :
Application No. 10/103,878 : ON PETITION
Filed: March 25, 2002 :
Attorney Docket No. 221140US6

This is a decision on the petition, filed September 8, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 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.

This matter will be forwarded 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.

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

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Shigeo Kubota et al :
Application No. 10/103,878 : ON PETITION
Filed: March 25, 2002 :
Attorney Docket No. 221140US6

This is a decision on the petition, filed September 8, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 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.

This matter will be forwarded 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.

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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APR 1 2 2004
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COMMISSIONER FOR PATENTS
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RECEIVED: 10/27/03
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 10/27/03
Type of Resp(s):
Due Date(s):

Paper No.

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

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OCT 2 4 2003
OFFICE OF PETITIONS

In re Application of
Masato Takahashi
Application No. 10/103,881
Filed: March 25, 2002
Attorney Docket No. 221243US2X

ON PETITION

This is a decision on the petition, filed October 23, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 11, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3662 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 18, 2005

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction on Patent No.: 6,855,698

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

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch – ST – RM 9A22

Palm location 7580 - Tel. No. 308-9390

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

Please see the IFW Code COCIN, amdt A, the claims, and return to PUBSCOFC, STACY POWELL, ASAP.

Thank You For Your Assistance

/ST/

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:

would

Since the change requires reexamination

(see MPEP 1481 [R-3])

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/SP/ 2/10/06 1623

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 18, 2005

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction on Patent No.: 6,855,698

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

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch – ST – RM 9A22

Palm location 7580 - Tel. No. 308-9390

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

Please see the IFW Code COCIN, amdt A, the claims, and return to PUBSCOFC, STACY POWELL, ASAP.

Thank You For Your Assistance

S Tracy

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:

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Approved only as to "In the Specification" but denied change in the Claims since the change would require reexamination (See MPEP 1481[R-3])

SP 3/9/06

SPE

1623

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 18, 2005

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction on Patent No.: 6,855,698

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

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch – ST – RM 9A22

Palm location 7580 - Tel. No. 308-9390

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

Please see the IFW Code COCIN, amdt A, the claims, and return to PUBSCOFC, STACY POWELL, ASAP.

Thank You For Your Assistance

S Tracy

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:

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would

since the change requires reexamination

(see MPEP 1481 [R-3])

SPE 2/06/06

SPE

1623

Art Unit

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ONE PLASTICS AVENUE
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In re Application of :
Michael J. O'Brien, et al. :
Application No. 10/103,926 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 60SI2000-4 :

This is a decision in response to the petition, filed September 16, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 17, 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) was obtained. Accordingly, the application became abandoned on August 18, 2007. A Notice of Abandonment was mailed on November 20, 2007. On September 16, 2008, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply, (2) the petition fee of $1,540, and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the response filed September 11, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050 extension of time fee submitted with the petition on September 16, 2008 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 the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Saliwanchik Lloyd & Saliwanchik
A Professional Association
P. O. Box 142950
Gainesville, FL 32614-2950

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MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Douglas A. Levinson, et al. :
Application No. 10/103,983 : DECISION ON PETITIONS
Filed: March 22, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. TPI-T700XC1 : AND UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 2, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on March 22, 2002 and was pending at the time of filing of the instant petition. A reference to the prior-filed 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) and 1.78(a)(5)(iii).

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). *See* 35 U.S.C. §§ 120 and 365(c) and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) 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 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Marianne Jenkins at (571) 272-3223.

This application is being referred to Technology Center Art Unit 1636 for appropriate action on the amendment submitted August 2, 2004, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(1) and (2) and 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (5) for the benefit of the prior-filed applications.

Frances Hicks

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

Attachment: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/18/07 Paper No.: —

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/104011 Patent No.: 7129962B1

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

Kee Tung
SPE

2628
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Sharon E. Crane, Ph.D.
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

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MAR 0 6 2003

OFFICE OF PETITIONS

Applicant: Paul et al.
Appl. No.: 10/104,019
Filing Date: March 25, 2002
Title: PROTEINS ENCODED BY POLYNUCLEIC ACIDS OF PORCINE REPRODUCTIVE AND RESPIRATORY SYNDROME VIRUS (PRRSV)
Attorney Docket No.: 033303-044
Pub. No.: US 2002/0168379 A1
Pub. Date: November 14, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on January 14, 2003 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

The assignment information was not printed on the patent application publication, because it was not provided on the transmittal letter or on an application data sheet.[1]

The application is being forwarded to the Office of PreGrant Publication (PG-PUB) in Crystal Park 3-905 for further processing.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[1]See Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Pape No.: 6-3-04

DATE : 6/2/04

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction on Patent No.: 6674515

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~~ 910
Palm location ~~7580~~ 7590 - Tel. No. 305-~~8309~~ 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. Please see COCIN dated 3-3-04 in table of contents in IFW.

Dina T. Rose
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:

Alan A. Mathews
(Acting SPE for 2851)
SPE

2851
Art Unit

PAGE 1/1 * RCVD AT 6/2/2004 1:24:51 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/24 * DNIS:2732123 * CSID:703 305 4372 * DURATION (mm-ss):00-36

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FEB 10 2006

OFFICE OF PETITIONS

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

In re Application of :
Blanche, et al. : LETTER REGARDING PTA
Application No. 10/104,025 :
Filed: March 25, 2002 :
Atty. Dkt. No.: 08888.0546 :

This letter is in response to the "NOTICE OF ERROR IN DETERMINATION OF PATENT TERM ADJUSTMENT," filed January 13, 2006. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of 75 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants indicate that the PTA of 134 days indicated on the Determination of Patent Term Adjustment Under 35 U.S.C. 154(d) is incorrect, and that the correct PTA at the time of allowance was 75 days.

A review of the application history reveals that at the time of allowance, an adjustment of 193 days could be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1). In accordance with 37 CFR 1.704(b), the adjustment was reduced 30 days in connection with the request for continued examination filed December 9, 2004, and reduced 29 days in connection with the response filed May 13, 2005.

The adjustment of 193 days should have been reduced a total of 118 days for applicants' failure to engage in reasonable efforts to conclude prosecution.

The adjustment of 193 days is further reduced 59 days in accordance with 37 CFR 1.704(b). As the amendment filed September 1, 2005, was not in compliance with § 1.113(c), the period for reply to the final rejection mailed June 6, 2005,

continued to run. See Advisory Action mailed September 27, 2005. The proper reply, a Notice of Appeal, was not received in the Office until November 4, 2005. Accordingly, the reduction began September 7, 2005, the day after the date that is three months after the date of mailing of the final rejection, and ended November 4, 2005, the date the Notice of Appeal was filed.

In view thereof, at the time of allowance, the application was entitled to a PTA of 75 days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

This application is being forwarded to the Publishing Division for further processing.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

PTA Calculations for Application: 10/104025			
Application Filing Date:	03/25/2002	PTO Delay (PTO):	193
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	59
Post-Issue Petitions:	0	Total PTA (days):	75
PTO Delay Adjustment:	-59		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
70	02/01/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		59	
66	12/21/2005	MAIL NOTICE OF ALLOWANCE			
65	12/18/2005	ISSUE REVISION COMPLETED			
64	12/18/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
63	07/23/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	12/15/2005	NOTICE OF ALLOWABILITY			
61	12/06/2005	DATE FORWARDED TO EXAMINER			
60	11/04/2005	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
59	11/04/2005	NOTICE OF APPEAL FILED			
58	11/04/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
57	09/27/2005	MAIL ADVISORY ACTION (PTOL - 303)			
56	09/23/2005	ADVISORY ACTION (PTOL-303)			
55	09/01/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
54	09/20/2005	DATE FORWARDED TO EXAMINER			
53	09/01/2005	AMENDMENT AFTER FINAL REJECTION			
52	06/06/2005	MAIL FINAL REJECTION (PTOL - 326)			
51	06/03/2005	FINAL REJECTION			
50	05/23/2005	DATE FORWARDED TO EXAMINER			
49	05/13/2005	RESPONSE AFTER NON-FINAL ACTION		29	47
48	05/13/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
47	01/14/2005	MAIL NON-FINAL REJECTION			
46	01/13/2005	NON-FINAL REJECTION			

45	12/09/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
44	12/15/2004	DATE FORWARDED TO EXAMINER			
43	12/09/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
42	12/15/2004	DATE FORWARDED TO EXAMINER			
41	12/09/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)		30	31
40	12/15/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
39	12/09/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	12/09/2004	WORKFLOW INCOMING AMENDMENT IFW			
37	12/09/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
36	11/17/2004	MAIL ADVISORY ACTION (PTOL - 303)			
35	11/16/2004	ADVISORY ACTION (PTOL-303)			
34	11/15/2004	DATE FORWARDED TO EXAMINER			
33	11/08/2004	AMENDMENT AFTER FINAL REJECTION			
32	11/08/2004	WORKFLOW INCOMING AMENDMENT IFW			
31	08/09/2004	MAIL FINAL REJECTION (PTOL - 326)			
30	08/06/2004	FINAL REJECTION			
29	07/08/2004	DATE FORWARDED TO EXAMINER			
28	06/25/2004	RESPONSE AFTER NON-FINAL ACTION			
27	06/25/2004	WORKFLOW INCOMING AMENDMENT IFW			
26	03/25/2004	MAIL NON-FINAL REJECTION			
25	03/23/2004	CASE DOCKETED TO EXAMINER IN GAU			
24	03/22/2004	NON-FINAL REJECTION			
23	02/14/2004	DATE FORWARDED TO EXAMINER			
22	02/04/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
21	02/04/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
20	12/04/2003	MAIL RESTRICTION REQUIREMENT	193		-1
19	12/02/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
18	08/27/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	08/27/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	03/06/2003	MISCELLANEOUS INCOMING LETTER			
15	02/28/2003	PRELIMINARY AMENDMENT			

14	03/14/2003	CASE DOCKETED TO EXAMINER IN GAU			
13	03/11/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
12	11/13/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	08/12/2002	APPLICATION DISPATCHED FROM OIPE			
10	08/06/2002	APPLICATION IS NOW COMPLETE			
9	07/23/2002	ADDITIONAL APPLICATION FILING FEES			
8	07/23/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	07/23/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
6	04/23/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	04/15/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	04/06/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	03/25/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	03/25/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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ANDERSON & MORISHITA, L.L.C.
SUITE 102
2725 S. JONES BLVD.
LAS VEGAS NV 89146

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AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Michael Calderone :
Application No. 10/104,040 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. CALDERONE02-01 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action mailed July 9, 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 October 10, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8859.

The application file is being referred to Technology Center AU 1761.

Karen Creasy

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,751,926	2004-06-22	10/104,074	2002-03-21	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Marc E. Hankin/	Date (YYYY-MM-DD)	2010-05-26
Name	Marc E. Hankin	Registration Number	38908

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. 6751926
Issue Date: June 22,2004
Application No. 10104074
Filed: March 21,2002
Attorney Docket No.

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

This is a decision on the electronic petition, filed May 26,2010 ,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 26,2010 . 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Lester D. Nelson	: DECISION ON REQUEST FOR
Patent Number	: 7610563	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/104,081	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **390** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP - 7 2004

JAMES W. BOLCSAK
AVVENTIS PHARMACEUTICALS, INC.
PATENT DEPARTMENT
ROUTE #202-206
P. O. BOX 6800
BRIDGEWATER, NJ 08807-0800

#12

In re Application of	:
Timothy A. Ayers	:
Serial No.: 10/104097	: PETITION DECISION
Filed: March 22, 2002	:
Attorney Docket No.: HMR2022	:

This is in response to the petition under 37 CFR 1.181, filed July 20, 2004, requesting withdrawal of abandonment based on timely filing of a reply.

A review of the file history shows that the examiner mailed a Notice of Allowance and Issue Fee Due and a Notice of Allowability to applicants on October 29, 2003, setting a three month statutory period for reply. Upon failure to receive the Issue Fee the application was held abandoned by Notice of Abandonment mailed May 26, 2004. Applicants state and provide evidence that an Information Disclosure Statement (IDS) and a Request for Continued Examination (RCE) were filed by facsimile on January 29, 2004, with authorization to charge the appropriate fees. The IDS was entered in the file, but the RCE papers were misplaced and not entered. Filing of the RCE papers relieved applicant of the requirement to pay the Issue Fee. Thus the Notice of Abandonment was mailed in error. In view thereof, the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The RCE Fee will be charged to applicants' Deposit Account No. 18-1982, as directed, and the application will be forwarded to the examiner for further action.

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

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 6

EYAL S. RON
Madash, LLC
7 Coach Road
Lexington MA 02420

COPY MAILED

FEB 19 2003

OFFICE OF PETITIONS

In re Application of
Ron & Olivieri
Application No. 10/104,103
Filed: March 21, 2002
Attorney Docket No. EMP Emulsion
For: THERMALLY REVERSIBLE WATER IN OIL IN WATER EMULSIONS

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

This is in response to the petition under 37 CFR 1.47(a), filed October 7, 2002 (certificate of mailing October 1, 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 declaration/statement of facts of Eyal S. Ron and accompanying exhibits establish that the inventor was mailed the application papers, including the specification, claims and drawings, but refused to sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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LAETITIA OLIVIERI
6, RUE VISCONTI
BATIMENT COUR, 3 EME ETAGE
75006 PARIS
FRANCE

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FEB 19 2003

OFFICE OF PETITIONS

In re Application of
Ron & Olivieri
Application No. 10/104,103
Filed: March 21, 2002
Attorney Docket No. EMP Emulsion
For: THERMALLY REVERSIBLE WATER IN OIL IN WATER EMULSIONS

LETTER

Dear Ms. Olivieri.:

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: EYAL S. RON
Madash, LLC
7 Coach Road
Lexington MA 02420

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

EYAL S. RON
Madash, LLC
7 Coach Road
Lexington, MA 02420

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OCT 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Oliviere : DECISION ON PETITION
Application No. 10/104,103 :
Filed: March 21, 2002 :
Atty. Dkt. No.: EMP EMULSION :

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 24, 2004 for failure to timely reply to the Notice of Allowance and Issue Fee Due and the Notice of Allowability ("Notices") mailed April 23, 2004. The Notices set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed August 25, 2004.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notices is accepted as having been unintentionally delayed.

This application will be forwarded to publishing for further processing.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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JUL 25 2007

OFFICE OF PETITIONS

PRO-TECHTOR INTERNATIONAL
20775 NORADA COURT
SARATOGA, CA 95070-3018

In re Application of :
Zhi-Min Liu :
Application No. 10/104,123 : ON PETITION
Filed: March 21, 2002 :
Attorney Docket No. 2001009 :

This is a decision in response to the petition, filed March 29, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed June 12, 2006. A Notice of Abandonment was mailed on January 26, 2007. In response, on March 29, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2618 for consideration of the amendment filed March 29, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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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

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 06/18/2010

Applicant	: Min Zhu	: DECISION ON REQUEST FOR
Patent Number	: 7636754	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/104,170	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1042** 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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SEP 08 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Gilles Joseph Beaudoin
196 Mitchell Street
Port Colborne, ON
L3K1Y3
CANADA

In re Application of
Gilles Joseph Beaudoin
Application No. 10/104,210
Filed: March 25, 2002
For: AUTOMATED CONTROL MECHANISM FOR A SNOW BLOWER DISCHARGE SHOOT

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' response taken as a petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on July 12, 2004.

The petition is **DENIED**.

A review of the file record indicates that on a non-final Office action was mailed on September 30, 2003. Since no reply to the non-final Office action mailed on September 30, 2003 was received, the application was abandoned and a notice to that effect was mailed on March 30, 2004.

It is noted that the correspondence filed on July 12, 2004, is after the 3 month shortened statutory period for reply set forth in the Office action mailed on September 30, 2003. In the correspondence, applicant includes one cover page having a date of July 12, 2004 and a second cover page having a date of October 20, 2003. Applicant's correspondence also includes a copy of a registered mail receipt showing a shipping order number but no date. It is unclear if applicant has included the receipt to show a previous mailing of the response however the receipt cannot be used to prove a date of mailing of a document to the Office since the receipt itself lacks a date or any "identifiers" which would indicate what paper is actually being submitted. Without such a tie-in, the receipt above cannot be considered acceptable evidence. Additionally, there is no evidence in the file record of having received a previous response from applicant.

Thus, there is no Office error and the application is properly abandoned.

Applicants 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 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(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 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 (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 petition fee required by law for filing a petition under unavoidable standard is $110. The fee for a petition under the unintentional standard is $1,330. If applicants have, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

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."

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

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Gilles Joseph Beaudoin
196 Mitchell Street
Port Colborne, ON
L3K1Y3
CANADA

MAILED
FROM DIRECTORS OFFICE

JAN 10 2005

TECHNOLOGY CENTER 3600

In re Application of :
Gilles Joseph Beaudoin :
Application No. 10/104,210 :
Filed: March 25, 2002 :
For: AUTOMATED CONTROL MECHANISM
FOR A SNOW BLOWER DISCHARGE SHOOT

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicant's letter filed September 26, 2004, which is taken as a renewed petition to withdraw the holding of abandonment, filed under 35 U.S.C. 1.181.

The petition is **DENIED**.

A review of the file record indicates that a non-final Office action was mailed on September 30, 2003 with a three month shortened statutory period. Since no reply to the non-final Office action mailed on September 30, 2003 was received, the application was abandoned and a notice to that effect was mailed on March 30, 2004.

On July 12, 2004 applicant submitted a response to the September 30, 2003 Office Action. Applicant's response was taken as a petition to withdraw the holding of abandonment, that petition being denied on September 8, 2004. On September 26, 2004 applicant filed the present renewed petition, again requesting that the Office withdraw the holding of abandonment.

In support thereof, applicant has submitted, *inter alia.,* a copy of an amendment allegedly mailed on April 21, 2003, and a copy of a Canadian registered mail receipt, front and back, showing a date of April 21, 2003.

Applicant's evidence is insufficient to withdraw the holding of abandonment of the present application. In this regard, a registered mail receipt is not considered to be an acceptable showing of a timely filed paper. There is nothing on the registered mail receipt indicating that it, in fact, is connected with applicant's amendment dated April 13, 2003, and alleged to have been mailed April 21, 2003. And, finally and most importantly, there is nothing in the file record, or applicant's petitions, to indicate that applicant actually filed a timely **response** to the Office Action of September 30, 2003. The only evidence of a response filed by applicant after the Office Action of September 30, 2003, was the amendment filed on July 12, 2004, or well after the abandonment

date of March 30, 2004. Even if applicant were to successfully prove that he filed an amendment on April 21, 2003, that was before the Office Action of September 30, 2003, and cannot be considered a response thereto. Therefore, applicant has not provided adequate evidence that a response was filed sometime after the Office Action was mailed on September 30, 2003, but before the application became abandoned on March 30, 2004.

Thus, there is no Office error and the application is properly abandoned.

Applicants 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 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(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 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 (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 petition fee required by law for filing a petition under unavoidable standard is $110. The fee for a petition under the unintentional standard is $1,330. If applicants have, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

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Paper No. 11

Gilles Joseph Beaudoin
196 Mitchell Street
Port Colborne ON L3K1Y-3 CA CANADA

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FEB 18 2005

OFFICE OF PETITIONS

In re Application of :
Gilles Joseph Beaudoin :
Application No. 10/104,210 :
Filed: March 25, 2002 :
Title: AUTOMATED CONTROL :
MECHANISM FOR A SNOW BLOWER :
DISCHARGE SHOOT :

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

This is a decision on the petition filed January 19, 2005, 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 September 30, 2003, 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 December 31, 2003. A Notice of Abandonment was mailed March 30, 2004.

With the instant petition, Petitioner has filed the petition fee and has made the proper statement of unintentional delay. Petitioner has met requirements (2) and (3) above. The fourth requirement does not apply.

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

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed[2]. In order for the application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. §1.137(b)(1) (i.e., either an amendment or a response to the non-final communication of September 30, 2003, or the filing of a continuing application). The petition was not accompanied by any of these replies.

A copy of the above-mentioned communication has been enclosed.

The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5].

The reply should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. The Petitioner may wish to consider telephoning the undersigned at the number provided below to confirm that the documents were delivered to the undersigned. Please note that the delivery process within the PTO can take as much as three weeks.

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

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

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

Encl. The non-final communication of September 30, 2003

2 See M.P.E.P. 711.03(c).

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

5 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

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Paper No. 14

Gilles Joseph Beaudoin
196 Mitchell Street
Port Colborne ON L3K1Y-3 CA CANADA

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MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Gilles Joseph Beaudoin :
Application No. 10/104,210 :
Filed: March 25, 2002 :
Title: AUTOMATED CONTROL :
MECHANISM FOR A SNOW BLOWER :
DISCHARGE SHOOT :

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

This is a decision on the renewed petition filed March 7, 2005 and March 14, 2005, 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 September 30, 2003, 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 December 31, 2003. A Notice of Abandonment was mailed March 30, 2004.

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

On January 19, 2005, the original petition pursuant to 37 C.F.R. §1.137(b) was received, which was dismissed via the mailing of a decision on February 18, 2005, for failure to include the required reply.

With this renewed petition, Petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b), as Petitioner has submitted an amendment.

The petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to Technology Center 3671 for further processing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

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

AKIN GUMP STRAUSS HAUER & FELD
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

COPY MAILED

JAN 23 2003

OFFICE OF PETITIONS

In re Application of :
David Acher et al :
Application No. 10/104,217 : DECISION GRANTING STATUS
Filed: March 22, 2002 : UNDER 37 CFR 1.47(A)
For: SKIN TREATMENT COMPOSITIONS :

This is in response to the petition under 37 CFR 1.47(a), filed September 3, 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.

After this decision is mailed, petitioner's deposit account No. 50-1017, will be charged the required $130 petition fee.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 1615 for examination in due course.

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
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WASHINGTON, D.C. 20231
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SEVERINE DELAPLACE
LE CLOS SAINT LOUIS
11A RUE VICTOR HUGO
38500 VOIRON, FRANCE

COPY MAILED

JAN 2 3 2003

OFFICE OF PETITIONS

In re Application of
David Acher and Severine Delaplace
Application No. 10/104,217
Filed: March 22, 2002
For: SKIN TREATMENT COMPOSITIONS

Dear Ms. Delaplace:

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 Wan Laymon at (703) 306-5685. 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:
AKIN GUMP STRAUSS HAUER & FELD
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 5

PHILIP R. WARN
WARN BURGESS & HOFFMANN, P.C.
P.O. BOX 70098
ROCHESTER HILLS, MI 48307

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SEP 1 2 2002

OFFICE OF PETITIONS

In re Application of :
Ed Elliot et al :
Application No. 10/104,232 :
Filed: March 22, 2002 :
Attorney Docket No. DKT 00056A :

NOTICE

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

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

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

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

This file is being forwarded to Technology Center 3700.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. BONUTTI, PETEL M.
Issue Date: 11/14/2006
Appl No.: 10/104,250
Filed: March 22, 2002
For: **METHOD FOR UTILIZING HUMAN TISSUE**

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition under 37 CFR 1.48, filed March 30, 2006. 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.

In view of the papers filed March 30, 2006 and fee paid, the inventorship in this nonprovisional application has been changed by the deletion of Mark V. Brillhart.

Applicant's request has been found to comply with all of the requirements under 37 CFR 1.48(b).

The petition is granted.

Michael J. Hayes
Supervisory Patent Examiner
Art Unit 3734
Patent Examining Group 3700

PAUL D. BIANCO: FLEIT, KAIN, GIBBONS,
GUTMAN, BONGINI, & BIANCO P.L.
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI, FL 33180

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 15 2006

OFFICE OF PETITIONS

In re Application of :
Hans Werner Schoelling :
Application No. 10/104,264 : DECISION GRANTING PETITION
Filed: March 22, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. J&J 2018 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 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 May 12, 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 November 15, 2005 (November 12, 2005, the due date, is a Saturday).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply, (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of May 12, 2005 is accepted as having been unintentionally delayed.

As the filing of the Notice of Appeal on November 14, 2005 was an improper reply to the non-final Office action of May 12, 2005, as noted in the Notice of Abandonment mailed on November 25, 2005, the $500 fee submitted is refundable. Accordingly, the $500 Notice of Appeal fee will be credited to petitioner's deposit account in due course.

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

This matter is being referred to Technology Center AU 3761 for appropriate action in the normal course of business on the reply received June 14, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080422

DATE : April 29, 2008

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: 7,172,892

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:

Pages 1-4 of Applicant's proposed Certificate of Correction are APPROVED.

Nashaat T. Nashed, Ph.D.

SPE: /Nashaat T. Nashed/
Art Unit 1652

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080422

DATE : June 9, 2008

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: 7,172,892

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:

Pages 1-4 of Applicant's proposed Certificate of Correction are APPROVED.

Nashaat T. Nashed, Ph.D.

SPE: /Nashaat T. Nashed/
Art Unit 1652

UNITED STATES
PATENT AND
TRADEMARK OFFICE

MAILED
FROM DIRECTORS OFFICE
DEC 16 2004
TECHNOLOGY CENTER 3600

#8

Paper No. 8

In re Application of:	:	
Richard M. Boden, et.al.	:	NOTICE OF WITHDRAWAL
Application No. 10/104,272	:	FROM ISSUE
Filed: March 30, 2002	:	UNDER 37 CFR § 1.313(b)
Attorney Docket No. IFF-10-1	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to the unpatentability of one or more claims. See 37 CFR § 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee and publication fee are refundable upon written request. Applicant may also request that the fee be credited to a specified Deposit Account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. This request, and any balance due, must be received on or before the due date noted in the new Notice of Allowance and Issue and Publication Fee Due in order to prevent abandonment of the application. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner Peter Poon at (703)-308-2574.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Donald T. Hajec, Director
Technology Center 3600

cc: Office of Patent Publication

7-1-02

0330

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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OIPE JC146 JUN 2 6 2002 PATENT & TRADEMARK OFFICE

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3)

May 23, 2002

Central Coast Patent Agency
P O Box 187
Aromas CA 95004

This is a decision on the request filed on March 22, 2002 to convert provisional application 60/278,502 to a nonprovisional application.

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a nonprovisional application must be filed within 12 months of the filing date of the provisional application and must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application.

The present request, however, is not accompanied by the fee required by 37 CFR 1.17(i).

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the fee required by 37 CFR 1.17(i).

Any inquiries related to this decision should be directed to Customer Service at (703) 308-1202.

Sincerely,

Janice Tippett
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Central Coast Patent Agency
P.O. Box 187
Aromas, CA 95004

In re Application of	:	
Ramakrishna Satavolu et al	:	
Application No. 60/278,502	:	
Filed: March 23, 2001	:	
Attorney Docket No. P3981	:	
	:	DECISION GRANTING PETITION
In re Application of	:	
Ramakrishna Satavolu et al	:	
Application No. 10/104,296	:	
Filed: March 22, 2002	:	
Attorney Docket No. P3981	:	

This is a decision on the "Petition to Withdraw Request to Convert a Provisional Application to a Non-Provisional Application" filed by facsimile on October 11, 2002, which is being treated as a request to withdraw the "Petition for Reconsideration of Decision Dismissing Request Under 37 CFR 1.53(c)(3)" filed June 26, 2002.

On March 23, 2001, provisional application No. 60/278,502 was filed including, inter alia, 4 pages of specification, 5 sheets of block-diagram drawings, a provisional application cover sheet, and the provisional application filing fee.

On March 22, 2002, a "Letter of Conversion from Provisional to Non-Provisional Patent Application" was filed stating that "[A]pplicant is hereby converting provisional application, serial number 60/278,502, to a nonprovisional application." The "Letter of Conversion" was accompanied by, inter alia, a new specification (40 pages including 34 claims), a new set of 5 sheets of block-diagram drawings, a nonprovisional application transmittal form, an abstract page, an unexecuted declaration, and the small entity filing fee for a nonprovisional application. It is noted that the "Letter of Conversion" additionally stated that "[A]pplicant hereby claims benefit under 35 U.S.C. 119(e) of the United States provisional patent application 60/278,502."

On May 23, 2002, a decision was mailed treating the March 22, 2002 "Letter of Conversion" as a request under 37 CFR 1.53(c)(3) to convert provisional application No. 60/278,502 to a nonprovisional application, dismissing the conversion request for lack of the $130.00 petition fee required by 37 CFR 1.53(c)(3), and setting a 2 month nonextendable time period to provide the required petition fee.

In response, on June 26, 2002, petitioners filed a "Petition for Reconsideration of Decision Dismissing Request under 37 CFR 1.53(c)(3)" accompanied by the $130.00 petition fee required under 37 CFR 1.53(c)(3), and requesting reconsideration of the May 23, 2002 decision in view of the accompanying petition fee.

Petitioners request that the June 26, 2002 "Petition for Reconsideration" be withdrawn, because the March 22, 2002 "Letter of Conversion" was not intended by petitioners to be a 37 CFR 1.53(c)(3) conversion request, but rather a new nonprovisional application filing using the accompanying new application papers and claiming the benefit under 35 U.S.C. 119(e) of provisional application No. 60/ 278,502.

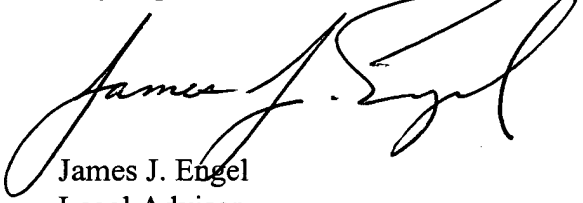
Prior to this decision, the provisional application papers filed on March 23, 2001 were removed from the file wrapper of provisional application No. 60/278,502 and placed in a nonprovisional application file wrapper assigned application No. 10/104,296 together with the March 22, 2002 "Letter of Conversion" and all accompanying papers. However, no decision on the June 26, 2002 "Petition for Reconsideration" was ever mailed. Accordingly, the June 26, 2002 "Petition for Reconsideration" may be withdrawn.

The request to WITHDRAW petitioners' June 26, 2002 "Petition for Reconsideration" is granted.

The $130.00 petition fee filed June 26, 2002 will not be refunded.

Application No. 10/104,296 is being forwarded to Initial Patent Examination Division for:
(1) removing all the provisional application papers filed March 23, 2001 from the file of application No. 10/104,296 and placing those papers in a provisional application file wrapper assigned provisional application No. 60/278,502 (the same provisional application number originally assigned to those provisional application papers); and
(2) correction of Office records to show that the filing date of application No. 10/104,296 is **March 22, 2002** (the 10/104,296 file wrapper presently indicates the wrong filing date).

Any inquiries related to this decision should be directed to the undersigned at (703) 308-5106.



James J. Engel
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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MCCARTER & ENGLISH LLP
CITYPLACE I
185 ASYLUM STREET
HARTFORD CT 06103

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Fasske :
Application No. 10/104,302 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 304417.00008 :
For: PORTABLE APPARATUS FOR SHEARING MULTI-WALLED WORKPIECES

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

The above-identified application became abandoned for failure to reply in a timely manner to the December 7, 2004 non-final Office action which set an extendable three (3) month period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on March 8, 2005. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Petitioner has submitted an amendment in reply to the December 7, 2004 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the December 7, 2004 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center 3700's technical support staff for processing the amendment filed on August 24, 2005.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

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

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OCT 3 1 2002

OFFICE OF PETITIONS

In re Application of :
Kerry B. Gunning, Tom Powdrill, and Michael Hogan :
Application No. 10/104,307 : DECISION ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 053960-0001 :
Title: HYBRIDIZATION RATE ENHANCEMENT :
FOR SUBSTRATE-BOUND SPECIFIC NUCLEIC :
ACID-BINDING AGENTS

This is a decision on the petition pursuant to 37 C.F.R. §1.47(a)[1, 2], filed on August 13, 2002.

The petition under 37 C.F.R. §1.47(a) is **GRANTED**.

On March 22, 2002, the application was deposited, identifying Kerry B. Gunning, Tom Powdrill, and Michael Hogan as joint inventors. The application was deposited without an executed oath or declaration. On May 3, 2002, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration and a surcharge of $65.00 were required. This Notice set a two-

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

2 Petitioner states "the Applicants petition on the basis that the non-signing co-inventors either refuse to execute the Declaration or cannot be found" (page 1). Petitioner cannot allege the address of the non-signing inventor is unknown, and then assert a refusal to sign. He can either claim the person cannot be located, whereby he does not have to establish the inventor received the application papers, or he can allege a refusal to sign. If he is alleging a refusal to sign, he must establish that a *bona fide* attempt was made to present a copy of the application papers to each non-signing inventor (which would require a known address). See MPEP 409.03(d). As it seems unlikely that an applicant would mail a confidential patent application to an address he was unsure of, it is assumed that this is a typographical error, and that he is asserting that both of the non-signing inventors have refused to execute the declaration.

With the instant petition, the petitioner has included a statements from both an attorney of record and the vice president and chief financial officer of the purported assignee[3], a declaration executed by inventor Gunning, copies of the executed employment agreements for both of the non-signing inventors, copies of e-mails sent to both of the non-signing inventors which discuss the execution of the declaration, copies of return receipts for packages sent to both of the non-signing inventors , the filing fee for the instant petition, and the $65.00 surcharge.

The documents submitted establish that a copy of the application papers was sent to the non-signing inventor at his last known address, and he has failed to respond.

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

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

After this decision is mailed, the application will be returned to the Office of Initial Patent Examination (OIPE) for completion of pre-examination processing.

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

Notice regarding fees:

Historically the fees that the USPTO charges for doing business increase at the beginning of each fiscal year (October 1). However, no final determination has been made on fees for FY03 at this point, and fiscal year 2003 was started with the same fee structure as last fiscal year.

Please be advised that applicants should monitor the USPTO website for future updates whenever any necessary money is sent.

For more information, see www.USPTO.gov, click on "News and Notices", and under the "Patents" column you will find the above information[4].

Christina Donnelly

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

3 The Patent Application Location Monitoring system computer records fail to show an assignment on record.

4 The direct URL is: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/feenotice.htm

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael Hogan
2833 East Fourth Street
Tuscon, AZ 85716

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OCT 3 1 2002

OFFICE OF PETITIONS

In re Application of :
Kerry B. Gunning, Tom Powdrill, and Michael Hogan :
Application No. 10/104,307 : LETTER
Filed: March 22, 2002 :
Attorney Docket No. 053960-0001 :
Title: HYBRIDIZATION RATE ENHANCEMENT :
FOR SUBSTRATE-BOUND SPECIFIC NUCLEIC :
ACID-BINDING AGENTS :

Dear Mr. Hogan:

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, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63

Telephone inquiries regarding this communication should be directed to Petitions Attorney Paul Shanoski 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).

Christina Y Donnelly

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Tom Powdrill
78 South Bethany Bend
The Woodlands, TX 77382

In re Application of
Kerry B. Gunning, Tom Powdrill, and Michael Hogan
Application No. 10/104,307
Filed: March 22, 2002
Attorney Docket No. 053960-0001
Title: HYBRIDIZATION RATE ENHANCEMENT FOR SUBSTRATE-BOUND SPECIFIC NUCLEIC ACID-BINDING AGENTS

LETTER

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OCT 3 1 2002

OFFICE OF PETITIONS

Dear Mr. Powdrill:

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, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Paul Shanoski 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).

Christina P. Donnellon

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT D. FISH
RUTAN & TUCKER
611 ANTON BLVD 14TH FLOOR
COSTA MESA, CA 92626-1931

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OCT 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Geoffrey C. Garth :
Application No. 10/104,310 :
Filed: March 22, 2002 :
Attorney Docket No. 183-8.APP :

DECISION ON PETITION
TO MAKE SPECIAL
37 CFR 1.102(d)

This is a decision on the petition under 37 CFR §1.102(d), filed July 29, 2005, to make the above-identified application special.

The petition requests that the above-identified application be made special as set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringingdevice or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringingdevice, product, or method with the claims of the application has been made, and that, in his other opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status

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

All other inquires concerning either the examination orstatus of the application should be directed to the Technology Center at (571) 272-2600.

This matter is being referred to the Technology Center Art Unit 3764 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAPER NO. 14

WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

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JUL 25 2003

OFFICE OF PETITIONS

In re Application of
Andy C. Wei, et al.
Application No. 10/104,319
Filed: March 21, 2002
Attorney Docket No. 2000.093200/TT5101

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 21, 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 December 19, 2002, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 2814 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
(703) 305-9220

[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

Conrad O. Gardner
7755 E. Marginal Way S., M/C 13-08
P.O. Box 3707
Seattle WA 98124-2207

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OFFICE OF PETITIONS

In re Application of	:	
Jeanne GUERIN et al.	:	
Application No. 10/104,331	:	ON PETITION
Filed: March 22, 2002	:	
Attorney Docket No. 00-456	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 20, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 21, 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 an amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of October 20, 2004 is accepted as having been unintentionally delayed.

Furthermore, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the three-month extension of time submitted with the petition on August 26, 2005 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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 David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 3751 for appropriate action on the concurrently filed election.

Brian Hearn
Petitions Examiner
Office of Petitions

cc: Lisa N. Benado
The Boeing Company
P.O. BOX 3707, M/C 11-XT
Seattle, WA 98124-2207

UNITED STATES 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.

ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK NY 10017

COPY MAILED

MAR 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Alberto Garavani et al.	:	
Application No. 10/104,410	:	DECISION ON PETITION
Filed: March 21, 2002	:	PURSUANT TO
Attorney Docket Number:	:	37 C.F.R. § 1.137(B)
205,568	:	
Title: CICATRIZANT	:	
HYDROCOLLOIDAL PATCH	:	
CONTAINING HYALURONIC ACID	:	
AND CHONDROITIN SULPHATE	:	

This is a decision on the petition filed February 7, 2008, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

The petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit an Appeal Brief within two-months of the filing of a

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.

Notice of Appeal, filed on June 19, 2007. No extensions of time pursuant to 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on August 20, 2007.

With this petition, Petitioner has submitted the petition fee, a Request for Continued Examination (RCE) along with the associated fee, the proper statement of unintentional delay, remarks, and a declaration under 37 C.F.R. § 1.132. No terminal disclaimer is required.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the new arguments contained within the remarks that were filed concurrently with this petition on February 7, 2008 and the concurrently submitted declaration under 37 C.F.R. § 1.132 - can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning the status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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 any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUDLEY A. CIAMPORCERO JR.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

COPY MAILED

OCT 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Gregory Scott Duncan, et al. :
Application No. 10/104,452 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. VTN-0591 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 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 non-final Office action mailed October 18, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 21, 2003.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Andrew J. Hagerty appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner.

The application file is being forwarded to Technology Center 3700, Art Unit 3721 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Andrew J. Hagerty
Woodcock Washburn LLP
One Liberty Place – 46th Floor
Philadelphia, PA 19103

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)
6920872	2005-07-26	10104463	2002-03-22	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

○ The assignee of record of the entire interest

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	/John P. Delaney IV/	Date (YYYY-MM-DD)	
Name	John P. Delaney IV		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6920872
Issue Date: July 26,2005
Application No. 10104463
Filed: March 22,2002
Attorney Docket No.

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

This is a decision on the electronic petition, filed September 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 September 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
P.O. Box 1450
Alexandria, VA 22313-1450
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STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

COPY MAILED

JUN 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Donald Joseph Phillip Pinto :
Application No. 10/104,467 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. PH-7307 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 10, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 11, 2004.

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

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

This matter is being referred to Technology Center AU 1624.

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

SMITH PATENT OFFICE
1901 PENNSYLVANIA AVENUE N W
SUITE 901
WASHINGTON, DC 20006

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JUN 26 2006
OFFICE OF PETITIONS

In re Application of :
Mikihiro Ouchi, et al. :
Application No. 10/104,481 : ON PETITION
Filed: March 25, 2002 :
Attorney Docket No.: 0074/022001 :

This is a decision on the petition, filed June 22, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 28, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2611 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 : June 26, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Mikihiro Ouchi, et al.
Application No. : 10/104,481
Filed : March 25, 2002

The above-identified application has been assigned Patent No. 7,072,423 and an issue date of July 4, 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 July 4, 2006:

> "All reference to Patent No. 7,072,423 to MIKIHIRO OUCHI, ET AL. of JAPAN for FRONT END PROCESSOR FOR DATA RECEIVER AND NONLINEAR DISTORTION EQUALIZATION METHOD appearing in the Official Gazette of July 4, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KEATING & BENNETT LLP
Suite 312
10400 Eaton Place
Fairfax, VA 22030

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JUL 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Yuichi Takamine :
Application No. 10/104,519 : ON PETITION
Filed: March 23, 2002 :
Attorney Docket No. 36856.660 :

This is a decision on the petition, filed June 28, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2817 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of
KINGSMAN, Susan M. et al.
Application No. 10/104,522
Filed: March 22, 2002
Attorney Docket No. **31127/43655B**

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 24, 2008.

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

A review of the file record indicates that the power of attorney to the Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on March 19, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MARSHALL, GERSTEIN & BORUN LLP**
233 S. WACKER DRIVE, SUITE 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
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MARSHALL GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of :
Susan Mary Kingsman et al :
Application No. 10/104,522 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 31127/43655B

This is a decision on the petition, filed October 8, 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 August 13, 2008 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 1635 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/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC - 6 2005

GENERAL ELECTRIC COMPANY
APPLIANCE PARK, AP2-225
LOUISVILLE, KY 40225

In re application of
Charles Scoble
Application No. 10/104,533
Filed: March 25,2002
For: METHOD AND APPARATUS FOR COMPENSATING A PLURALITY OF FRANCHISE PARTICIPANTS IN A MULTI-LEVEL SALES FORCE

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

This is in response to the petition filed on September 20, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

The petition fails to adequately meet requirement (D) above. Regarding item (D), the petition does not include one copy of each of the references deemed most closely related to the subject matter encompassed by the claims.

For the above stated reason, the petition is **DISMISSED.**

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/dcg: 12/5/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FROM DIRECTORS OFFICE

JAN 12 2006

TECHNOLOGY CENTER 3600

BARNES & THORNBURG
750-17TH STREET NW
SUITE 900
WASHINGTON, DC 20006

In re application of
Charles Scoble
Application No. 10/104,533
Filed: March 25, 2002
For: METHOD AND APPARATUS FOR COMPENSATING A PLURALITY OF FRANCHISE PARTICIPANTS IN A MULTI-LEVEL SALES FORCE

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

This is in response to the renewed petition filed on December 7, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
571-272-6587

KJD/dcg: 12/28/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

In re Application of
Isaka et al.
Application No. 10/104,546
Filed: March 22, 2002
For: **ONLINE INTERACTION PROCESSING**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as Attorney(s) of record and change of address filed on January 18, 2005.

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

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

All attorneys/agents associated with Customer Number 22434 in the request to withdraw are withdrawn.

All future communications from the Office will be directed to the below-listed address 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:

Todd Noah at Dergosits and Noah LLP
Four Embarcadero Center, Suite 1450
San Francisco, CA 94111

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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TODD NOAH AT DERGOSITS AND NOAH, LLP
FOUR EMBARCADERO CENTER
SUITE 1450
SAN FRANCISCO, CA 94111

COPY MAILED

NOV 17 2005

OFFICE OF PETITIONS

In re Application of :
Satoru Isaka et al :
Application No. 10/104,546 :
Filed: March 22, 2002 :
Attorney Docket No. PROQP008 :

ON PETITION

This is a decision on the petition, filed November 16, 2005, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **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).

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons

enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

Petitioner indicates that a request for continued examination will be filed upon the granting of the petition. However, before the petition under 37 CFR 1.313(c)(2) can be granted, a request for continued examination and submission pursuant to the provisions of 37 CFR 1.114 must be submitted.

Petitioner is advised that a petition under 37 CFR 1.313(c)(2) will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue. *Note* 37 CFR 1.313(d).

If reconsideration of this decision is desired, a renewed petition under 37 CFR 1.313(c)(2), a request for continued examination, and submission pursuant to the provisions of 37 CFR 1.114 must be received and granted prior to issuance of this application into a patent.

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) 273-0025
ATTN: Office of Petitions

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TODD NOAH AT DERGOSITS AND NOAH, LLP
FOUR EMBARCADERO CENTER, SUITE 1450
SAN FRANCISCO, CA 94111

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DEC 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Satoru Isaka et al :
Application No. 10/104,546 : DECISION GRANTING PETITION
Filed: December 6, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PROQP008 :

This is a decision on the renewed petition, filed November 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 2, 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 2654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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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JUN 20 2008

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

In re Application of :

NEWMAN, Michael J. et al. :
Application No. 10/104,549 :
Filed: March 20, 2002 :
Attorney Docket No. **578512000420** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 27, 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 Catherine Polizzi on behalf of all attorneys of record who are associated with customer No. 25226. All attorneys/agents associated with the Customer Number 25226 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **MICHAEL J. NEWMAN**
5279 SANDDLLAR CT.
SAN DIEGO, CA 92130

cc: **JOHN R. ROAD**
650 PAGE MILL ROAD
PALO ALTO, CA 94304

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL J. NEWMAN
5279 SANDDLLAR CT.
SAN DIEGO, CA 92130

COPY MAILED

SEP 15 2008

OFFICE OF PETITIONS

In re Application of :
Michael J. Newman et al :
Application No. 10/104,549 : ON PETITION
Filed: March 20, 2002 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $770; 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. 11/627,289.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $525 extension of time submitted with the petition on May 21, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's deposit account.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Steve G. Bacsi
Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304

#12

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Lori D. Stiffler
Baker Botts L.L.P.
One Shell Plaza
910 Louisiana Street
Houston, TX 77002-4995

MAILED

JUN 26 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Qi Qu et al.
Application No.10/104,557
Filed: March 22, 2002
For: LOW RESIDUE WELL TREATMENT FLUIDS AND METHODS OF USE

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on April 16, 2003, and the renewed request filed on May 1, 2003 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

As to condition B), the following reasons apply for the request filed on April 16, 2003 or the request filed on May 1, 2003. In the request filed on April 16, 2003, the reason for withdrawal that it is "due to a conflict of interest" does not fall within one of the proper reasons for withdrawal listed under 37 CFR 10.40. In the renewed request filed on May 1, 2003, there is no indication in the file record of the assignee being the "client." Absent a 3.73(b) statement, the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventors.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

RAR/dxn: 6/19/03

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

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Office of the Director
Group 3600

TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
526 SUPERIOR AVENUE, SUITE 1111
CLEVEVLAND, OH 44114

In re Application of
Jon K. Wallace, et al.
Application No. 10/104,559
Filed: March 22, 2002
For: STRUCTURED LIGHTING DETECTION OF VEHICLE OCCUPANT TYPE AND POSITION

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on January 22, 2003.

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

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on February 11, 2003 . and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

cps/2/2/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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PATENT

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: MAIL STOP PETITION, COMMISSIONER FOR PATENTS, P.O. Box 1450 ALEXANDRIA, VA 22313-1450, ON

December 22, 2003

Amita Malo 12/22/03

SIGNATURE DATE

RECEIVED
DEC 29 2003
OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Jon K. Wallace et al.
Serial No.	:	10/104,559
Filing Date	:	March 22, 2002
For	:	STRUCTURED LIGHTING DETECTION OF VEHICLE OCCUPANT TYPE AND POSITION
Group Art Unit	:	3662
Examiner	:	Brian K. Andrea
Attorney Docket No.	:	TRW(TE)4886

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

RENEWED PETITION TO WITHDRAW
THE HOLDING OF ABANDONMENT UNDER 37 CFR 1.81

Sir:

In response to the petition decision mailed December 16, 2003, this is a Renewed Petition to Withdraw The Holding of Abandonment.

The previously filed petition of July 25, 2003, was held unacceptable because applicants' prior response was filed with only a one-month extension. This decision

is in error because applicants had stated in their response mailed February 11, 2003 that if any further extensions of time we required that a petition for such extra extensions was made as may be needed plus authorized payment of any additional extension fees to a deposit account.

Notwithstanding, enclosed is a statement by Anita Galo attesting to her personal knowledge of mailing the response to the Office Action (copy enclosed) on the date indicated on the Certificate of Mailing included thereon.

Since the Patent Office was at error in that:

(1) The Applicants' timely filed response was received in the Patent Office; and

(2) The Applicants' petition to Withdraw Abandonment was improperly denied since applicants' originally petitioned for any necessary further extensions of time and authorized payment of extension fees to a deposit account;

applicants' patent term should be extended accordingly.

It is respectfully requested that the abandonment be withdrawn and the application returned to the Examiner for action.

Please charge any deficiency or credit any overpayment in the fees for this amendment to our Deposit Account No. 20-0090.

Respectfully submitted,

Barry L. Tummino
Reg. No. 29,709

TAROLLI, SUNDHEIM, COVELL,
& TUMMINO L.L.P.
526 Superior Avenue, Suite 1111
Cleveland, Ohio 44114-1400
Phone:(216) 621-2234
Fax: (216) 621-4072
Customer No.: 26,294

Practitioner's Docket No. TRW(TE)4886 *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Jon K. Wallace et al.

Application No.: 10/104,559
Filed: 03/22/2002

Group No.: 3662
Examiner: Brian K. Andrea

For: **STRUCTURED LIGHTING DETECTION OF VEHICLE OCCUPANT TYPE AND POSITION**

RECEIVED
DEC 29 2003
OFFICE OF PETITIONS

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

STATEMENT ATTESTING TO MAILING OF P.T.O. CORRESPONDENCE UNDER 37 C.F.R. § 1.8(a)

I state that on February 11, 2003, I mailed the original of the attached copy of correspondence with Certificate of Mailing by first class mail, with sufficient postage, in an envelope addressed to the " Assistant Commissioner for Patents, Washington, D.C. 20231."

Also attached is a copy of the return post card with respect to the correspondence.

Anita J. Galo

Date: December 22, 2003

Anita J. Galo

Signature of person making this statement

© 2003 Matthew Bender & Company, Inc., a member of the LexisNexis Group.

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TAROLLI, SUNDHEIM,
COVELL & TUMMINO L.L.P.

6

TE4886

BLT

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DEC 2 9 2003
OFFICE OF PETITIONS

PLEASE DATE AND RETURN

Date Mailed February 11, 2003 (Cert. of Mailing) Item Amendment

Applicant Wallace et al. Serial No. 10/104,559 (f. 3/22/02)

TITLE: **STRUCTURED LIGHTING DETECTION OF VEHICLE OCCUPANT TYPE AND POSITION**

Please find attached an Amendment Transmittal (4 pgs.); an Amendment (24 pgs.); a Proposed Drawing Correction (2 pgs.); a copy of the original Drawings Figs. 2 and 4-7 with red ink markings showing proposed changes THREE (3) Sheets; and a check in the amount of $194 to cover fees.

OIPE
JC26
FEB 19 2003
PATENT & TRADEMARK OFFICE

BLT/DJW/ajg
OUR FILE TRW(TE)4886
Clt. Ref. 007653-00US (ASPD)

JAN 0 3 2004

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DEC 2 9 2003
OFFICE OF PETITIONS

PLEASE DATE AND RETURN

Date Mailed February 11, 2003 (Cert. of Mailing) Item Amendment

Applicant Wallace et al. Serial No. 10/104,559 (f. 3/22/02)

TITLE: **STRUCTURED LIGHTING DETECTION OF VEHICLE OCCUPANT TYPE AND POSITION**

Please find attached an Amendment Transmittal (4 pgs.); an Amendment (24 pgs.); a Proposed Drawing Correction (2 pgs.); a copy of the original Drawings Figs. 2 and 4-7 with red ink markings showing proposed changes THREE (3) Sheets; and a check in the amount of $194 to cover fees.

BLT/DJW/ajg
OUR FILE TRW(TE)4886
Clt. Ref. 007653-00US (ASPD)

TAROLLI, SUNDHEIM, COVELL,
TUMMINO & SZABO L.L.P.
526 SUPERIOR AVENUE, SUITE 1111
CLEVELAND, OHIO 44114

NATIONAL CITY BANK
CLEVELAND, OH 44114-3484
6-12/410 1

2406

February 11, 2003

PAY TO THE ORDER OF COMMISSIONER OF PATENTS & TRADEMARKS WASHINGTON, D.C. 20231 $ $194.00

One Hundred Ninety Four Dollars and 00/100 DOLLARS

MEMO TRW(TE)4886

AUTHORIZED SIGNATURE

⑈002406⑈ ⑆044000124⑆ 39484476⑈

TAROLLI, SUNDHEIM, COVELL, TUMMINO & SZABO L.L.P.

2406

02-11-03	Fee for One Month Extension and One Extra Independent Claim Re: U.S. Wallace et al. Patent Application Serial No. 10/104,559, Filed 3-22-02 for STRUCTURED LIGHTING DETECTION OF VEHICLE OCCUPANT TYPE AND POSITION.	194.00

TRW(TE)4886 BLT/DJW:ajg

TAROLLI, SUNDHEIM, COVELL, TUMMINO & SZABO L.L.P.

2406

02-11-03	Fee for One Month Extension and One Extra Independent Claim Re: U.S. Wallace et al. Patent Application Serial No. 10/104,559, Filed 3-22-02 for STRUCTURED LIGHTING DETECTION OF VEHICLE OCCUPANT TYPE AND POSITION.	194.00

TRW(TE)4886 BLT/DJW:ajg

Practitioner's Docket No TRW(TE)4886 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Jon K. Wallace et al.

Application No.: 10/104,559 Group No.: 3662

Filed: March 22, 2002 Examiner: Brian K. Andrea

For: **STRUCTURED LIGHTING DETECTION OF VEHICLE OCCUPANT TYPE AND POSITION**

Assistant Commissioner for Patents
Washington, D.C. 20231

AMENDMENT TRANSMITTAL

Warning: Failure to file a complete response in compliance with § 1.135(c) leads to a reduction in patent term adjustment - See § 1.704(c)(7).

1. Transmitted herewith is an amendment for this application.

STATUS

RECEIVED
DEC 29 2003
OFFICE OF PETITIONS

2. Applicant is

☐ a small entity. A verified statement:

☐ is attached.

☐ was already filed.

☒ other than a small entity.

CERTIFICATION UNDER 37 CFR §§ 1.8(a) and 1.10*
*(When using Express Mail, the Express Mail label number is **mandatory**; Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents Washington, D.C. 20231

37 C.F.R. § 1.8(a)

☒ with sufficient postage as first class mail.

37 C.F.R. § 1.10*

☐ as "Express Mail Post Office to Addressee" Mailing Label No. _____ **(mandatory)**

TRANSMISSION

☐ transmitted by facsimile to the Patent and Trademark Office, (703) _____

Anita J. Galo
Signature

Date: February 11, 2003

Anita J. Galo
(type or print name of person certifying)

**Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.*

EXTENSION OF TERM

NOTE: "Extension of Time in Patent Cases (Supplement Amendments) – If a timely and complete response has been filed after a Non-Final Office Action, an extension of time is not required to permit filing and/or entry of an additional amendment after expiration of the shortened statutory period.

If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run." Notice of December 10, 1985 (1061 O.G. 34-35).

NOTE: See 37 CFR 1.645 for extensions of time in interference proceedings, and 37 CFR 1.550(c) for extensions of time in reexamination proceedings.

NOTE: 37 C.F.R. § 1.740(b) "...an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has not effect on the three-month period set forth in this paragraph."

3. The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

(complete (a) or (b), as applicable)

(a) ☒ Applicant petitions for an extension of time under 37 C.F.R. § 1.136 (fees: 37 C.F.R. § 1.17(1)-(4) for the total number of months check below:

Extension (months)	Fee for other than small entity	Fee for small entity
☒ one month	$ 110.00	$ 55.00
☐ two months	$ 410.00	$205.00
☐ three months	$ 930.00	$465.00
☐ four months	$1,450.00	$725.00

Fee $ 110.00

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next time, if applicable)

☐ An extension for _____ months has already been secured. The fee paid therefor of $_____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request $110.00

OR

(b) ☐ Applicant believes that no extension of term is required. However, this is a conditional petition being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. § 1.16(b)-d)) has been calculated as shown below:

(Col. 1)		(Col. 2)	(Col. 3)	SMALL ENTITY			OTHER THAN A SMALL ENTITY	
CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDIT. FEE	OR	RATE	ADDIT. FEE
TOTAL *8	MINUS	** 31	=0	X$ 9=	$		X$ 18=	$ 0.00
INDEP. *4	MINUS	*** 3	=1	X$ 42=	$		X$ 84=	$84.00
☐ FIRST PRESENTATION OF MULTIPLE DEP. CLAIM			=0	X$140=	$		X$280=	$ 0.00
				TOTAL ADDIT. FEE	$	OR	TOTAL ADDIT. FEE	$84.00

* *If the entry in Col. 1 is less than entry in Col. 2, write "0" in Col. 3.*

** *If the "Highest No. Previously Paid For" IN THIS SPACE is less than 20, enter "20".*

*** *If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".*

The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box In Col. 1 of a prior amendment or the number of claims originally filed.

WARNING *"After final rejection or action (§1.113) amendments may be made canceling claims or complying with any requirement of form which has been made." 37 C.F.R. § 1.116(a)(emphasis added).*

(complete (c) or (d), as applicable)

(c) ☐ No additional fee for claims is required.

OR

(d) ☒ Total additional fee for claims required $**84.00**

FEE PAYMENT

☒ Attached is a ☒ check ☐ money order in the amount of $**194.00**

☒ Authorization is hereby made to charge the amount of $**0.00**

☒ to Deposit Account No. **20-0090**.

☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

WARNING: *Credit card information should **not** be included on this form as it may become public.*

☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

FEE DEFICIENCY

NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986 (1065 O.G. 31-33).

6. ☒ If any additional extension and/or fee is required, charge Deposit Account No. 20-0090.

AND/OR

☒ If any additional fee for claims is required, charge Deposit Account No. 20-0090.

Barry L. Tummino
SIGNATURE OF PRACTITIONER

Barry L. Tummino
(type or print name of attorney)

Reg. No.: 29,709

Tel. No.:(216) 621-2234

Tarolli, Sundheim, Covell
& Tummino L.L.P.
526 Superior Avenue, Suite 1111
Cleveland, OH 44114-1400
P.O. Address

Customer No.: 26,294

PATENT

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, D.C. 20231, ON

February 11, 2003

Santos S. Galo 2/11/2003

SIGNATURE DATE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Jon K. Wallace et al.
Serial No.	:	10/104,559
Filing Date	:	March 22, 2002
For	:	STRUCTURED LIGHTING DETECTION OF VEHICLE OCCUPANT TYPE AND POSITION
Group Art Unit	:	3662
Examiner	:	Brian K. Andrea
Attorney Docket No.	:	TRW(TE)4886

Assistant Commissioner for Patents
Washington, D.C. 20231

AMENDMENT

Sir:

In response to the Office Action dated October 11, 2002, please amend the above-identified patent application as follows:

IN THE SPECIFICATION:

Page 9, please replace lines 12-23 with the following:

The structured light source 40 projects light patterns 42 onto an area of interest 44, in a manner as described below. The light patterns 42 may take any form, but preferably are either horizontal or vertical patterns that appear as stripes in the area of interest 44, or circular dots or spots of light. In the illustrated embodiment, the area of interest 44 is on the vehicle occupant 20 on the seat 18. At least one characteristic of the light pattern 42, as reflected from the area of interest 44, is measured or calculated to provide information useful in controlling the inflator 28 of the occupant protection system 12.

Page 12, please replace lines 6-17 with the following:

To determine the presence and position of an occupant (e.g., the occupant 20) of the vehicle seat 18, the image sensor 60 initially acquires a first image of the interior while only the diffuse light source 58 is turned on. The interior of the vehicle 10 is illuminated

by diffuse light to obtain a standard two-dimensional (2-D) image of the area of interest 44. This image is then sent to the controller 34 for processing by conventional 2-D image analysis techniques to determine features of interest within the field of the picture. A number of these techniques are known to the art.

Page 14, please replace lines 5-19 with the following:

The width of the light pattern 42 on the area of interest 44 is not measured directly. Instead, the width is determined (calculated) from the size of the angle subsumed by the light pattern as reflected on the imager 60. For convenience of notation, the distance from the image sensor 60 and the actual source 40 to the area of interest 44 is labeled B in Fig. 2. The distance from the apparent source 52 to the actual source 40 is labeled A in Fig. 2. The relationship between the angle subsumed by the pattern on the image sensor 60 and the width of

the light pattern 42 at the area of interest 44, can be expressed as follows:

(2) $\theta_{cam} = \sin^{-1}(Width/B)$

where θ_{cam} is the angle subsumed by the light pattern on the area of interest.

Page 21, please replace lines 3-11 with the following:

Fig. 4 illustrates the area of interest 82 as being on an occupant 20a located relatively far from the instrument panel 16a. Fig. 5 illustrates the occupant 20a as being relatively close to the instrument panel 16a. The light pattern 42a from the light source 40a impinges on the occupant 20a and forms an area of light 82 on the surface of the occupant. The area of light 82 has a certain size, including a certain height and width.

Page 22, please replace lines 11-14 with the following:

Therefore, the controller 34a can rely solely on the subtended angle θ_{cam} at the camera 60a, that is, the amount of field of

view occupied by the area of light 82, in making the object distance determination.

Page 22, lines 15-24 and page 23, lines 1-3, please replace with the following:

The camera 60a generates data representative of the amount of the field of view of the camera that is occupied by the area of light 82 on the illuminated object 20a, and representative of the angle θ_{cam} subtended by the area of light. The data generated by the imager 60a are output to the controller 34a. The controller 34a includes a memory 84 in which are stored values corresponding to certain object distances. The controller 34a includes a comparator 86 that is operative to compare the output from the imager 60a with the stored values in the memory 84. The controller 34a makes a determination as to the distance between the object 20a and the instrument panel 16a.

Page 23, lines 4-12, please replace replaced with the following:

Figs. 6 and 7 illustrate an occupant location system 12b in accordance with a fourth embodiment of the invention. The system 12b is similar to the system 12a (Figs. 4 and 5) in that both use a non-diverging light beam 42b that makes a spot of light on an occupant, in a distance measurement system. In the system 12b, however, the vertical location of the spot of light is used as an indirect determinant of distance, rather than the size of the spot of light.

Page 24, lines 14-23, please replace with the following:

Fig. 7 illustrates the person 20b as being relatively close to the instrument panel 16b. The beam of light 42b from the illuminator 40b impinges on the person and forms an area or spot of light 82b. The spot of light 82b has a center 83 that is higher than the location of the center in Fig. 6. The camera 60b generates

data representative of the vertical location of the center 83 of the spot of light 82b on the illuminated object 20b. The data generated by the camera 60b are output to the controller 34b.

IN THE CLAIMS:

Please rewrite the subject matter of claim 26 in independent form as new claim 32, with an amendment to the subject matter of claim 26, as follows:

32. A method of determining the location of a vehicle occupant in the interior of a vehicle, said method comprising the steps of:

projecting at least one structured light pattern from a light source onto an area of interest in the vehicle;

altering the apparent location of the light source with respect to the area of interest;

detecting a reflected light pattern with an image sensor;

measuring a characteristic of the light pattern on the area of interest; and

calculating the distance of points on the area of interest from the image sensor on the basis of the measured characteristic,

wherein said projecting step includes projecting at least one non-diverging light pattern onto the area of interest, said measuring step includes measuring the width of the light pattern on the area of interest, and said calculating step includes determining the amount of the field of view of the imager sensor that is occupied by the reflected light pattern.

Please add new claims 33-40, as follows:

33. A method as set forth in claim 32 wherein said projecting step further includes projecting a circular light pattern and said measuring step further includes measuring an apparent diameter of the light pattern on the area of interest.

34. A method as set forth in claim 32 wherein said projecting step includes creating a light pattern on the area of interest whose apparent width changes at a different rate than a rate of change of the distance between the area of interest and the image sensor, as the area of interest moves relative to the image sensor.

35. A method as set forth in claim 32 wherein said calculating step includes comparing data generated by the image sensor with stored data representing a relationship between (a) a distance between the area of interest and the image sensor, and (b) an angle at the image sensor that is subtended by the area of light.

36. Apparatus for determining the location of a vehicle occupant in a vehicle interior, comprising:

a light source for projecting at least one structured light pattern onto an area of interest in the vehicle;

at least one lens for altering an apparent location of said light source with respect to the area of interest;

an image sensor for detecting light reflected from the area of interest;

means for measuring a characteristic of the reflected light; and

means for determining a distance between said image sensor and the area of interest based on the measured characteristic of the reflected light,

wherein said light pattern is at least one non-diverging light pattern projected onto the area of interest, said means for measuring is adapted to measure a width of the at least one non-diverging light pattern on the area of interest, and the means for determining is adapted to determine an amount of a field of view of said image sensor that is occupied by the reflected light pattern.

37. Apparatus as set forth in claim 36 wherein said light source is adapted to project a circular beam of light, and said means for measuring is adapted to measure an apparent diameter of the light pattern on the area of interest.

38. Apparatus as set forth in claim 36 wherein said light source is adapted to project a stripe of light, and said means for measuring is adapted to measure an apparent width of the stripe of light on the area of interest.

39. A method of determining the location of an area of interest in the interior of a vehicle, said method comprising the steps of:

projecting a non-diverging light beam onto the area of interest in the vehicle interior to form a light pattern on the area of interest;

detecting light reflected from the area of interest with an image sensor, the non-diverging light beam being projected at a vertical angle relative to the image sensor;

measuring a vertical center of the light pattern on the area of interest and relative to said image sensor; and

determining a distance between said image sensor and the area of interest based on the measured vertical center of the light pattern relative to said image sensor.

40. Apparatus for determining the location of a vehicle occupant in a vehicle interior, comprising:

a light source for projecting a non-diverging light beam onto an area of interest in the vehicle interior to form a light pattern on the area of interest;

an image sensor for detecting light reflected from the area of interest, said light source projecting the non-diverging light beam at a vertical angle relative to the light source;

means for measuring a vertical center of the light pattern on the area of interest and relative to said image sensor; and

means for determining a distance between said image sensor and the area of interest based on the measured vertical center of the light pattern relative to said image sensor.

Please cancel claims 1-31 without prejudice or disclaimer.

REMARKS

Reconsideration of the above-identified patent application in view of the present amendment is respectfully requested.

The Office Action of October 11, 2002 objected to the specification. This amendment amends the specification to overcome the objections and to correct minor errors in the specification. The amendments to the specification add no new subject matter.

A Proposed Drawing Amendment is being filed contemporaneously with this Amendment. The Proposed Drawing Amendment makes corrections to Figs. 2, 6, and 7 and adds reference numbers to Figs. 4-7. The specification supports each of the proposed changes.

The Office Action objected to claims 7-11 and rejected claims 7-11 as indefinite under 35 U.S.C. §112, second paragraph for having improper dependencies. Claims 1, 14, 15, 17, 18, 23, and 30 were rejected as anticipated under 35 U.S.C. §102(e) by Cook, Jr. Claims 17 and 22 were rejected as anticipated under 35 U.S.C. §102(e) by Gillis. Claims 2-6, 12, 16, 19-21, 24, 25, 27-29, and 31 were rejected as obvious under 35 U.S.C. §103 over Cook, Jr. in view of Sorimachi. Claim 13 was rejected as obvious over Cook, Jr. in view

of Yamaguchi. It is respectfully acknowledged that claim 26 was indicated as allowable.

This amendment rewrites the subject matter of claim 26, which was indicated as allowable, in independent form as new claim 32. New claim 32 amends the subject matter of claim 26 slightly to correct a minor error. The amendment to the subject matter of claim 26 comprises removing the phrase "from the source" from the step of projecting at least one non-diverging light pattern onto the area of interest. It is respectfully suggested that this change to the subject matter of claim 26 does not affect the patentability of claim 32 and allowance of claim 32 is respectfully requested.

This amendment also adds new claims 33-40 and cancel claims 1-31. Claims 33-35 depend from claim 32 and are allowable for at least the same reasons as claim 32. Thus, allowance of claims 33-35 is respectfully requested.

New claim 36 recites an apparatus for determining the location of a vehicle occupant in a vehicle interior. The apparatus comprises a light source for projecting at least one structured light pattern onto an area of interest in the vehicle. At least one lens alters an

apparent location of the light source with respect to the area of interest. An image sensor detects light reflected from the area of interest. The apparatus also includes means for measuring a characteristic of the reflected light and means for determining a distance between the image sensor and the area of interest based on the measured characteristic of the reflected light. The light pattern is at least one non-diverging light pattern projected onto the area of interest. The means for measuring is adapted to measure a width of the at least one non-diverging light pattern on the area of interest. The means for determining is adapted to determine an amount of a field of view of said image sensor that is occupied by the reflected light pattern.

It is respectfully suggested that new claim 36 is allowable for reasons similar to claim 32. Thus, allowance of claim 36 is respectfully requested.

Claims 37 and 38 depend from claim 36 and are allowable for at least the same reasons as claim 36. Thus, allowance of claims 36-38 is respectfully requested.

New claim 39 recites a method of determining the location of an area of interest in the interior of a vehicle. During the method, a non-diverging light beam

is projected onto the area of interest in the vehicle interior to form a light pattern on the area of interest. Light reflected from the area of interest is detected with an image sensor. The non-diverging light beam is projected at a vertical angle relative to the image sensor. A vertical center of the light pattern is measured on the area of interest and relative to the image sensor. A distance between the image sensor and the area of interest is determined based on the measured vertical center of the light pattern relative to the image sensor.

It is respectfully suggested that claim 39 is allowable over Cook, Jr., Gillis, Sorimachi, and Yamaguchi, whether taken individually or in combination. Claim 39 recites that the non-diverging light beam is projected at a vertical angle relative to the image sensor. A vertical center of the light pattern is measured on the area of interest and relative to the image sensor. A distance between the image sensor and the area of interest is determined based on the measured vertical center of the light pattern and the vertical angle. None of Cook, Jr., Gillis, Sorimachi, and Yamaguchi teaches or suggests these features of claim 39. Thus, allowance of claim 39 is respectfully requested.

New claim 40 recites an apparatus for determining the location of a vehicle occupant in a vehicle interior. The apparatus comprises a light source for projecting a non-diverging light beam onto an area of interest in the vehicle interior to form a light pattern on the area of interest. An image sensor detects light reflected from the area of interest. The light source projects the non-diverging light beam at a vertical angle relative to the light source. The apparatus also includes means for measuring a vertical center of the light pattern on the area of interest and relative to the image sensor and means for determining a distance between the image sensor and the area of interest based on the measured vertical center of the light pattern relative to the image sensor.

It is respectfully suggested that claim 40 is allowable for reasons similar to claim 39. Thus, allowance of claim 40 is respectfully requested.

In view of the foregoing, it is respectfully submitted that the above-identified patent application is in condition for allowance, and allowance of the above-identified patent application is respectfully requested.

Attached hereto is a marked-up version of the changes made to the specification and claims by the

current amendment. The attached page is captioned **"Version with markings to show changes made."**

Please charge any deficiency or credit any overpayment in the fees for this amendment to our Deposit Account No. 20-0090.

Respectfully submitted,

Barry L. Tummino

Barry L. Tummino
Reg. No. 29,709
Customer No. 26,294

TAROLLI, SUNDHEIM, COVELL,
& TUMMINO L.L.P.
526 Superior Avenue, Suite 1111
Cleveland, Ohio 44114-1400
Phone: (216) 621-2234
Fax: (216) 621-4072

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION:

Page 9, lines 12-23 have been replaced with the following:

The structured light source 40 projects light patterns 42 onto an area of interest 44, in a manner as described below. The light patterns 42 may take any form, but preferably are either horizontal or vertical patterns that appear as stripes in the area of interest 44, or circular dots or spots of light. In the illustrated embodiment, the area of interest 44 is on the vehicle occupant 20 on the seat 18. At least one characteristic of the light pattern 42, as reflected from the area of interest ~~46~~ 44, is measured or calculated to provide information useful in controlling the inflator 28 of the occupant protection system 12.

Page 12, lines 6-17 have been replaced with the following:

To determine the presence and position of an occupant (e.g., the occupant 20) of the vehicle seat 18, the image sensor 60 initially acquires a first image of the interior while only the diffuse light source ~~50~~ 58 is turned on. The interior of the vehicle 10 is illuminated by diffuse light to obtain a standard two-dimensional (2-D) image of the area of interest 44. This image is then sent to the controller 34 for processing by conventional 2-D image analysis techniques to determine features of interest within the field of the picture. A number of these techniques are known to the art.

Page 14, lines 5-19 have been replaced with the following:

The width of the light pattern 42 on the area of interest 44 is not measured directly. Instead, the width is determined (calculated) from the size of the angle subsumed by the light pattern as reflected on the imager 60.

For convenience of notation, the distance from the image sensor 60 and the actual source 40 to the area of interest 44 is labeled B in Fig. ~~3~~ 2. The distance from the apparent source 52 to the actual source 40 is labeled A in Fig. ~~3~~ 2. The relationship between the angle subsumed by the pattern on the image sensor 60 and the width of the light pattern 42 at the area of interest 44, can be expressed as follows:

$$(2) \quad \theta_{cam} = \sin\text{-}1(\text{Width}/B)$$

where θ_{cam} is the angle subsumed by the light pattern on the area of interest.

Page 21, lines 3-11 have been replaced with the following:

Fig. 4 illustrates the area of interest ~~44~~ 82 as being on an occupant ~~20~~ 20a located relatively far from the instrument panel 16a. Fig. 5 illustrates the occupant 20a as being relatively close to the instrument panel 16a. The light pattern 42a from the light source 40a impinges on the occupant 20a and forms an area of light 82 on the surface of

the occupant. The area of light 82 has a certain size, including a certain height and width.

Page 22, lines 11-14 have been replaced with the following:

Therefore, the controller ~~34~~ 34a can rely solely on the subtended angle θ_{cam} at the camera 60a, that is, the amount of field of view occupied by the area of light 82, in making the object distance determination.

Page 22, lines 15-24 and page 23, lines 1-3, have been replaced with the following:

The camera 60a generates data representative of the amount of the field of view of the camera that is occupied by the area of light 82 on the illuminated object 20a, and representative of the angle θ_{cam} subtended by the area of light. The data generated by the imager 60a are output to the controller 34a. The controller 34a includes a memory 84 in which are stored values corresponding to certain object distances. The

controller ~~34~~ 34a includes a comparator 86 that is operative to compare the output from the imager 60a with the stored values in the memory 84. The controller 34a makes a determination as to the distance between the object 20a and the instrument panel 16a.

Page 23, lines 4-12 have been replaced with the following:

Figs. 6 and 7 illustrate an occupant location system 12b in accordance with a fourth embodiment of the invention. The system 12b is similar to the system 12a (Figs. 4 and 5) in that both use a non-diverging light beam 42b that makes a spot of light on an occupant, in a distance measurement system. In the system 12b, however, the vertical location of the spot of light is used as an indirect determinant of distance, rather than the size of the spot of light.

Page 24, lines 14-23 have been replaced with the following:

Fig. 7 illustrates the person 20b as being relatively close to the instrument panel ~~166~~ 16b. The beam of light 42b from the illuminator 40b impinges on the person and forms an area or spot of light 82b. The spot of light 82b has a center 83 that is higher than the location of the center in Fig. 6. The camera 60b generates data representative of the vertical location of the center 83 of the spot of light 82b on the illuminated object 20b. The data generated by the camera 60b are output to the controller 34b.

IN THE CLAIMS:

The subject matter of allowable claim 26 was rewritten in independent form as new claim 32 with an amendment to the subject matter of claim 26.

New claims 33-40 were added.

Claims 1-31 were cancelled without prejudice or disclaimer.

PATENT

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, D.C. 20231, ON

February 11, 2003

[signature] 2/11/2003

SIGNATURE DATE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Jon K. Wallace et al.
Serial No.	:	10/104,559
Filing Date	:	March 22, 2002
For	:	STRUCTURED LIGHTING DETECTION OF VEHICLE OCCUPANT TYPE AND POSITION
Group Art Unit	:	3662
Examiner	:	Brian K. Andrea
Attorney Docket No.	:	TRW(TE)4886

Assistant Commissioner for Patents
Washington, D.C. 20231

PROPOSED DRAWING AMENDMENT

Sir:

Attached is a copy of the original drawings Figs. 2 and 4-7 with red ink markings showing proposed changes to the drawings in this application for which approval of the Examiner is requested.

The proposed drawing amendment consists correcting Fig. 2 to illustrate equal distances between

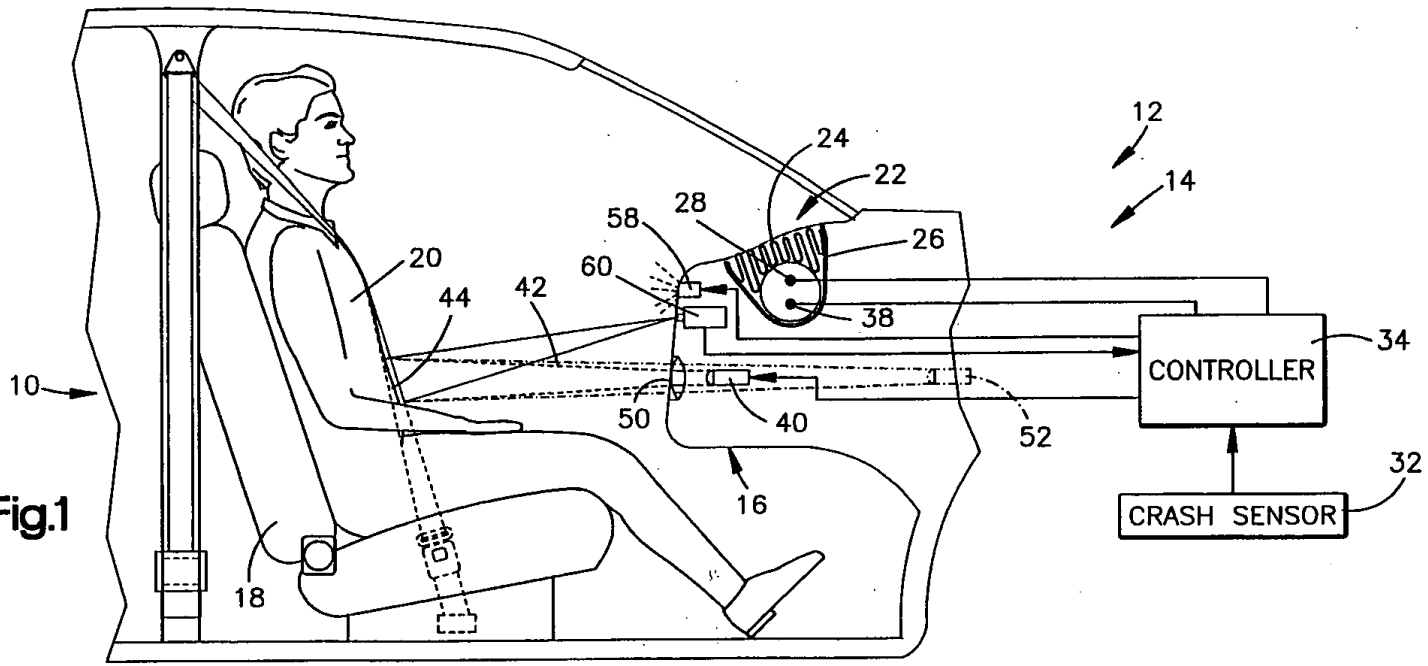
references 60 and 44 and references 40 and 44. Fig. 2 has also been corrected to illustrate the distance between reference 40 and reference 52 as the distance A. Support for these changes is provided in the specification at page 14. The changes to Figs. 4-7 label the instrument panel as 16a in Figs 4 and 5 and as 16b in Figs 6 and 7. Also, lines connecting reference 34b to reference 60b were added in Figs. 6 and 7. The specification supports each of these changes.

Respectfully submitted,

Barry L. Tummino

Barry L. Tummino
Reg. No. 29,709
Customer No.: 26,294

TAROLLI, SUNDHEIM, COVELL,
& TUMMINO L.L.P.
526 Superior Avenue, Suite 1111
Cleveland, Ohio 44114-1400
Phone: (216) 621-2234
Fax: (216) 621-4072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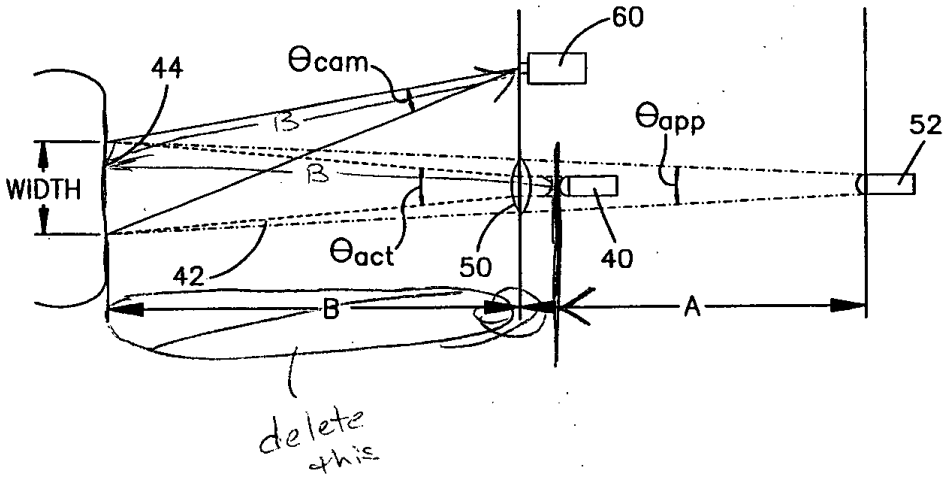
14
24
22
28
58
26
60
20
44
42
38
34
CONTROLLER
10
50
40
52
32
CRASH SENSOR
16
18

Fig.1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44
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θapp
52
WIDTH
θact
42
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40
B
A
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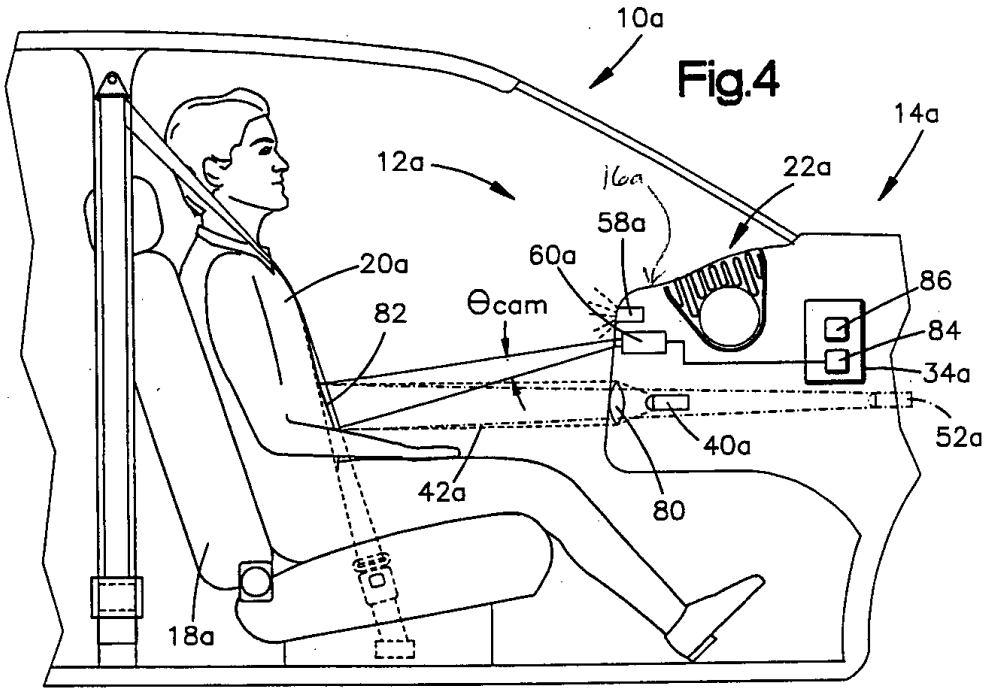
Fig.2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12a
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18a
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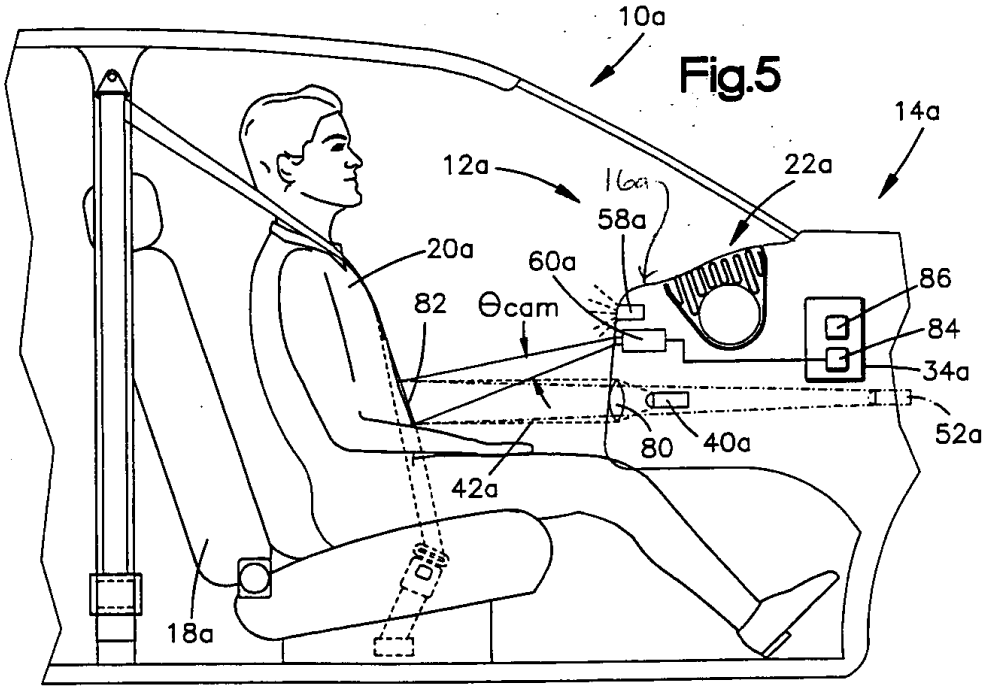
86
84
θcam

Fig.4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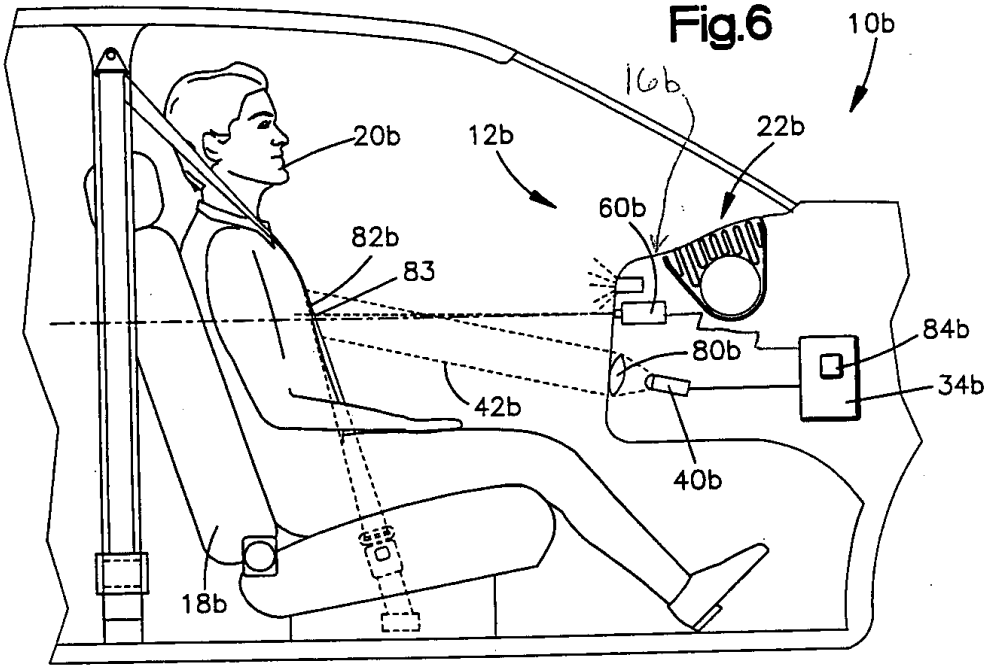
86
84
θcam

Fig.5

Fig.6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40b
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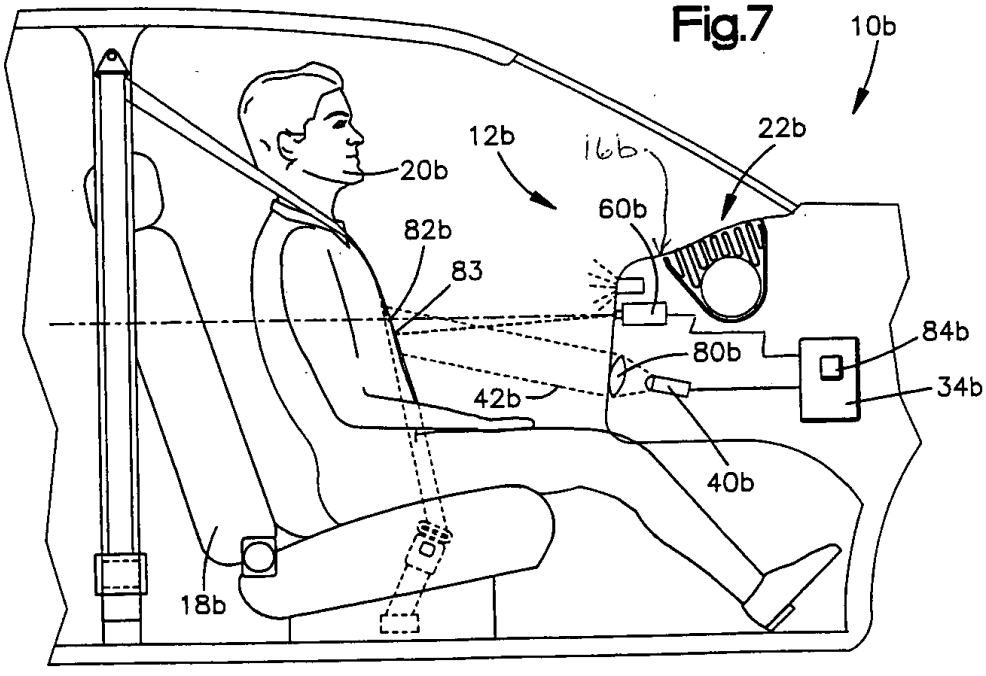
Fig.7


10b
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16b
22b
20b
60b
82b
83
84b
80b
34b
42b
40b
18b

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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
526 SUPERIOR AVENUE, SUITE 1111
CLEVELAND, OH 44114

In re Application of :
Jon Wallace et al. :
Application No. 10/104,559 :
Filed: March 22, 2003 :
For: STRUCTURED LIGHTING DETECTION OF VEHICLE OCCUPANT TYPE AND POSITION

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO), on July 28, 2003.

The petition is **DISMISSED**.

A review of the file record indicates that an Office action was mailed to applicants on October 11, 2002. Since a response was not timely filed, the application was held to be abandoned, and a Notice to that effect was mailed on July 17, 2003.

The petition includes a copy of the previously filed response which also requests a one-month extension of time. Applicants submit a returned postcard identifying the amendment; however, the postcard bears a USPTO Mail Room receipt date of February 19, 2003. This is unacceptable evidence of a timely filed response since the three-month shortened period with one month extension for response expired on February 11, 2003.

Applicants submit, along with the copy of the postcard, the response showing a Certificate of Mailing executed on February 11, 2003.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must include the following requirements:

(1) A copy of a response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

The petition does not include a statement under 37 CFR 1.8(b)(3) from Anita J. Galo attesting to the personal knowledge of mailing the response on the date indicated on the certificate

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Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR;ekn;12/10/03

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

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Gebran G. Chahrouri	: DECISION ON REQUEST FOR
Patent Number	: 7657263	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/104,564	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **987** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ALEXANDRIA, VA 22313-1450
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Paper No. None

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

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JAN 11 2006
OFFICE OF PETITIONS

In re Application of
Duc Nguyen, Noe Rizo, Jamie Shephard, and
Barbara Gutierrez
Application No. 11/104,565
Filed: April 13, 2005
Attorney Docket No. 249384US20
Title: HIGH-FIBER DAIRY PRODUCT

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed December 12, 2005.

On April 13, 2005, the application was filed, identifying Duc Nguyen, Noe Rizo, Jamie Shephard, and Barbara Gutierrez as joint inventors. The application was deposited without an executed oath or declaration. On May 12, 2005, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required. This Notice set a two-month period for reply.

Along with the present petition, Petitioner has submitted the petition fee[2], a five-month extension of time to make timely this response, a statement of facts, a declaration which has been executed

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 The surcharge associated with the late submission of an oath or declaration was provided on filing.

by each of the joint inventors save Mr. Rizo, and the last known address of the same.

The petition has met requirements (1) – (3) and (5) above.

Regarding the fourth requirement above, the petition contains a statement which asserts that the non-signing inventor "refuses to sign the Rule 63 Declaration or cannot be reached[3]." The Petitioner cannot have it both ways. It does not make sense for one to allege the address of the non-signing inventor is unknown, and then assert that the inventor has refused to sign. He can either claim the person cannot be located, whereby he does not have to establish the inventor received the application papers, or he can allege a refusal to sign. If he is alleging a refusal to sign, he must establish that a *bona fide* attempt was made to present a copy of the application papers to each non-signing inventor[4] (which would require a known address). If he is alleging that the inventor cannot be found, he must establish that a diligent effort was made to locate the same.

It is noted in passing that a package was sent to the non-signing inventor, and the package was returned from DHL, as the shipping company was "unable to locate the address with information provided[5]."

For these reasons, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Any reply 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. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

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

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

---

3 Petition, page 1.
4 See MPEP 409.03(d).
5 Letter from DHL, dated December 6, 2005.
6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
7 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
8 (571) 273-8300- please note this is a central facsimile number.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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PENG CHEN
MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE, SUITE 500
SAN DIEGO, CA 92130-2332

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NOV 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Mingxian Huang et al :
Application No. 10/104,571 : DECISION ON PETITION
Filed: March 21, 2002 : UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 471842000520 :

This is a decision on the petition, filed November 8, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

Petitioner requests withdrawal of this application from issue in order to correct the priority information in the specification to include claims of priority to prior-filed applications by way of an amendment under 37 CFR 1.312.

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).

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

Before filing a renewed petition to withdraw this application from issue, petitioner's attention is directed to the amendment to the specification filed January 19, 2005.[1]

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) 273-0025 for 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

[1] It is noted that this amendment contains an improper incorporation by reference statement. Note MPEP 201.11 III. Reference to Prior Application(s).

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MARSHALL, GERSTEIN & BORUN, LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of :
Evren Eryurek, et. al. :
Application No. 10/104,586 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 30203/37510 :

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

The above application became abandoned for failure a proper reply to the final Office action mailed April 23, 2007.

A review of the record shows that a Request for Continued Examination (RCE) under 37 CFR 1.114 and an amendment was filed on October 30, 2007. However, an Advisory action was mailed on November 1, 2007, which crossed in the mail with the Advisory action. Therefore, the petition to revive and the RCE filed on November 1, 2007 is being treated as the required response.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an RCE with the $810 filing fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 2612, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

MAILED

MAY 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Evren Eryurek, et al.	:	
Application No. 10/104,586	:	DECISION GRANTING PETITION
Filed: March 22, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 30203/37510	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 26, 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 April 28, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1].

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2612 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
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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Paper No.

ANDERSON, KILL & OLICK, P.C.
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1182

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MAR 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Toshihiro Ogawa	:	DECISION ON
Application No. 10/104,608	:	PETITION
Filed: March 22, 2002	:	
Atty Docket No. MM4529	:	

This is a decision on the "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed March 6, 2006.

The petition under § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee (and publication fee) within the three-month statutory period for reply set in the Notice of Allowance mailed March 31, 2005. No extensions of time are permitted for transmitting issue fees (or publication fees). An issue fee transmittal was received on May 9, 2005. However, the Notice of Abandonment mailed February 21, 2006, states that the submitted fee of $0 is insufficient. Accordingly, the above-identified application became abandoned on July 1, 2005.

On instant petition, petitioner included the petition fee, the required reply in the form of payment of the issue fee (and publication fee) and a statement that the entire delay was unintentional. Petitioner has, thereby, met the requirements for revival under § 1.137(b).

The Publishing Division has been advised of this decision. The application file has thereby been forwarded to the Publishing Division for processing into a 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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JUL 13 2005

ERIC P. MIRABEL
BIONUMERIK PHARMACEUTICALS, INC.
8122 DATAPOINT DRIVE
SAN ANTONIO, TX 78229

In re Application of	:
Harry Kochat	:
Serial No.: 10/104,660	: PETITION DECISION
Filed: March 22, 2002	:
Attorney Docket No.: X-0208	:

This is in response to the petition under 37 CFR 1.181, filed July 19, 2004, and status inquiry regarding the petition, filed May 12, 2005, requesting withdrawal of abandonment based on failure to receive an Office action. The delay in acting on this petition is regretted, however it was not forwarded to the deciding authority until the status inquiry was received.

A review of the file history shows that the examiner mailed an Office action to applicant on October 6, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply a Notice of Abandonment was mailed to applicant on May 20, 2004. Applicant states that the Office action was never received and provide a statement to that end. However, M.P.E.P. 711.03(c) requires in addition to a statement of non-receipt and search of file jacket and/or other records, evidence in the form of mail logs, docket entries or other records which would substantiate non-receipt. In view of the failure to provide the evidence required, the Notice of Abandonment cannot be withdrawn at this time.

The petition is **DISMISSED**. Applicant may file a renewed petition supplying the missing requirements. Any renewed petition must be filed within TWO MONTHS in order to be considered timely.

The application will be retained in storage. A copy of the non-received Office action is enclosed herewith for applicant's convenience.

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

George C. Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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OCT 25 2005

ERIC P. MIRABEL
BIONUMERIK PHARMACEUTICALS, INC.
8122 DATAPOINT DRIVE
SAN ANTONIO, TX 78229

In re Application of	:
Harry Kochat	:
Serial No.: 10/104,660	: PETITION DECISION
Filed: March 22, 2002	:
Attorney Docket No.: X-0208	:

This is in response to the renewed petition under 37 CFR 1.181, filed September 15, 2005, requesting withdrawal of abandonment based on failure to receive an Office action.

As previously noted, a review of the file history shows that the examiner mailed an Office action to applicant on October 6, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply a Notice of Abandonment was mailed to applicant on May 20, 2004. Applicant states that the Office action was never received and provides a revised statement and copies of docket records to substantiate the non-receipt. In view thereof it is concluded that the action was never received. Therefor, the holding of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **DISMISSED**.

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 William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of
Siu Man L. Cowan et al.
Application No. 10/104,662
Filed: March 22, 2002
Attorney Docket No. 22112(4)

ON PETITION

This is a decision on the petition, filed April 29, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the final Office Action mailed November 3, 2003. No extensions of time having been requested and no timely response filed, this application became abandoned February 4, 2004. Accordingly, a Notice of Abandonment was mailed June 17, 2004.

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

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

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

(3) a statement that the entire delay in filing the required reply from the due date

for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

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

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of November 3, 2003, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment still does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on July 26, 2004, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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AUG 10 2005

OFFICE OF PETITIONS

In re Application of :
Siu Man L. Cowan et al. :
Application No. 10/104,662 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 22112(4) :

This is a decision on the renewed petition, filed August 4, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed November 3, 2003. No extensions of time having been requested and no timely response filed, this application became abandoned February 4, 2004. Accordingly, a Notice of Abandonment was mailed June 17, 2004. A petition to revive was filed April 29, 2005 and dismissed in a decision mailed July 12, 2005.

Comes now petitioner with this renewed petition.

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

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

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

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

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

A Request for Continued Examination (RCE), and an amendment previously filed on April 29, 2005, are of record in response to the Final Office action and in compliance with 37 CFR 1.114. The RCE fee has been applied.

The application is being forwarded to Technology Center 1616 for processing of the RCE and amendment.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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AUG 20 2007

OFFICE OF PETITIONS

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

In re Patent No. 6,884,070 :
Issue Date: April 26, 2005 :
Application No. 10/104,688 : NOTICE
Filed: March 21, 2002 :
Patentee(s): Julien Cevey, et. al. :

This is a notice regarding your communication filed on August 28, 2006, which is being treated as a request to accept 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.** Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

DO NOT SEND TO WAREHOUSE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 42705 Paper No.: 10104709

TO SPE OF : ART UNIT 2823-J-GARCIA

SUBJECT : Request for Certificate of Correction on Patent No.: 6787401

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.

Should the changes be made?

Thank You For Your Assistance

R Johnson
Certificates of Correction Branch

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

JAG 5-5-05

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

Comments:

Olik Chaudhuri
SPE

2823
Art Unit

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Paper No. 12

McNEES WALLACE & NURICK
100 PINE STREET, BOX 1166
HARRISBURG, PA 17108

COPY MAILED

NOV 05 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Marcio Lins Tinoco Marques et al :
Application No. 10/104,757 :
Filed: March 21, 2002 :
Attorney Docket No. 13DV-14234/11780 :

This is a decision on the petition under 37 CFR 1.313(c), filed November 3, 2003, 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 25, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3726 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OCT 16 2006

OFFICE OF PETITIONS

The Law Office of Kirk D. Williams
1234 S. Ogden St.
Denver, Colorado 80210

In re Application of
Shoham et al.
Application No. 10/104,759
Filed: March 21, 2002
Attorney Docket No. 45617

: DECISION GRANTING PETITION

This decision is in response to applicants' "REQUEST FOR REINSTATEMENT OF REDUCED PATENT TERM ADJUSTMENT(PTA) PURSUANT TO 37 CFR § 1.705(c)" timely[1] filed on July 3, 2006 requesting that the Office adjust the PTA from zero (0) days to a determination of EIGHTY HUNDRED AND EIGHTY(880) TO A DETERMINATION OF NINE HUNDRED AND SEVENTY-FIVE (975) at the time of the issuance of the patent. The petition is being construed under 37 CFR 1.705(d) and not 37 CFR 1.704(c).[2]

Applicants' request for PTA is **GRANTED.** The Office will make an adjustment to the PTA determination to reflect this decision. The correct amount of PTA at the time of the issuance of the patent is NINE HUNDRED AND SEVENTY-FIVE (975) DAYS. The Office will also *sua sponte* issue a certificate of correction to reflect this decision.

Applicants request that the Office erred in assessing a one hundred and fourteen (114) day delay under 37 CFR 1.704(c)(10). Applicants assert that pursuant to 37 CFR 1.704(c)(10), the reduction should have been nineteen (19) days rather than one hundred and fourteen (114) days. Accordingly, applicants assert that the correct amount of PTA at the time of the issuance of the patent is nine hundred and seventy-five (975) days. Applicants assert that delay should have been only 19 days because the Office mailed a reply to the 312 amendment on March 17, 2006 and on such date the reduction sunder 37 CFR 1.704(c)(10) should have ended.

Applicants arguments are persuasive. A review of the records reveal that the Office did in fact respond to the 312 amendment on March 17, 2006. Pursuant to 37 CFR 1.704(c)(10), the reduction ends on the mail date of the response to the paper triggering such reduction. In this instance, applicants filed a 312 amendment on February 27, 2006 and the Office mailed a response to the 312 on March 17, 2006. The correct amount of reduction is nineteen days,

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[1]Patent issued on June 20, 2006.

[2]The Office notes that applicants are not actually asserting that "in spite of all due care" applicants have a justification as to why they could not respond within three months. See 37 CFR 1.705(c). In addition, the Office notes that the petition fee for 1.705(d) petition is $200.00 not the $400.00 fee required by 37 CFR 1.70(5)(c)

beginning on February 27, 2006 and ending on March 17, 2006, a nineteen days reduction. Applicants are in agreement with the nine hundred and ninety-four (994) days of PTA under 37 CFR 1.702(a)(1). Thus, the correct PTA determination at the time of the issuance of the patent is NINE HUNDRED AND SEVENTY-FIVE (994-19=975) DAYS as suggest by applicants.

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

The Office has assessed the $200.00 fee associated with this application. No additional fees are required by applicant. The Office had previously charged applicant $400.00 for the fee under 37 CFR 1.705(c). However, since the proper petition is pursuant to 37 CFR 1.705(d), a refund of $200.00 will be applied to Deposit account 50-1430.

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

Kery Fries

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

Cc: Copy of adjusted PAIR calculation
Draft Certificate of correction

Day : Saturday
Date: 10/14/2006

PALM INTRANET

Time: 13:06:21

PTA Calculations for Application: 10/104759			
Application Filing Date:	03/21/2002	PTO Delay (PTO):	994
Issue Date of Patent:	06/20/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	114
Post-Issue Petitions:	0	Total PTA (days):	975
PTO Delay Adjustment:	95		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
48	10/14/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		19	
47	10/14/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	114		
42.5	05/31/2006	PTA 36 MONTHS			
42	06/20/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
41	03/29/2006	EXPORT TO FINAL DATA CAPTURE			
40	03/28/2006	DISPATCH TO FDC			
39	03/28/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
38	03/28/2006	RESPONSE TO AMENDMENT UNDER RULE 312			
37	02/27/2006	CORRECTION - DRAWING NOT REQUIRED			
36	03/16/2006	FINISHED INITIAL DATA CAPTURE			
35	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
34	03/17/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
33	03/15/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
32	02/27/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		114	
31	02/27/2006	ISSUE FEE PAYMENT VERIFIED			
30	02/14/2006	EXPORT TO INITIAL DATA CAPTURE			
29	02/27/2006	ISSUE FEE PAYMENT RECEIVED			
28	02/08/2006	MAIL NOTICE OF ALLOWANCE	994		-1
27	02/08/2006	MAIL FORMAL DRAWINGS REQUIRED			
26	02/08/2006	MAIL EXAMINER'S AMENDMENT			
25	02/08/2006	MAIL EXAMINER'S AMENDMENT			
24	02/07/2006	ISSUE REVISION COMPLETED			

23	02/07/2006	EXAMINER'S AMENDMENT COMMUNICATION			
22	02/07/2006	FORMAL DRAWINGS REQUIRED			
21	02/07/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
20	02/07/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	02/06/2006	EXAMINER'S AMENDMENT COMMUNICATION			
18	02/06/2006	NOTICE OF ALLOWABILITY			
17	11/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	11/23/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	03/16/2003	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
14	02/24/2003	REFERENCE CAPTURE ON IDS			
13	10/16/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	02/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
10	06/13/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	06/07/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	05/22/2002	TRANSFER INQUIRY TO GAU			
7	05/22/2002	TRANSFER INQUIRY TO GAU			
6	04/25/2002	APPLICATION DISPATCHED FROM OIPE			
5	04/24/2002	APPLICATION IS NOW COMPLETE			
4	04/09/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
3	04/08/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	04/05/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/21/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,065,091 B2

DATED : Jun. 20, 2006

INVENTOR(S) : SHOHAM 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 (880) days

Delete the phrase "by 880 days" and insert – by 975 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

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JUL 0 9 2003

OFFICE OF PETITIONS

In re Application of
L. M. Stein et al.
Application No. 10/104,791
Filed: March 22, 2002
Attorney Docket No. 3399P081

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 15, 2003, under 37 CFR 1.137(f), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application.

The petition is dismissed as **MOOT.**

An applicant who makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request **before or on the date a counterpart application is filed in an eighteen-month publication country**, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request were never made. *See* Notice published on www.USPTO.gov on June 6, 2003, which clarifies the USPTO's interpretation of the provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv).

In the instant application, a notice to rescind was filed prior to the filing date of a corresponding application in a foreign country. Therefore, since the filing of the request to rescind prior to the filing date of a corresponding application in a foreign application resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

Since this application is not in fact abandoned for the reason stated above, the petition fee of $1300 is being credited to Deposit Account No. 02-2666 as authorized.

This application is being forwarded to Technology Center 2681 for examination in due course.

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

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

Frances Hicks
Lead Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT SAMUEL SMITH
1263 EMORY ST.
SAN JOSE, CA 95126

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of :
Stephen Ray Wurzburger :
Application No. 10/104,794 : ON PETITION
Filed: March 23, 2002 :
Attorney Docket No. RSSW12 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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).

Petitioner is advised that as of December 8, 2004, the Petition fee for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) is $750 for a small entity. Petitioner remitted $700 for the petition fee on July 26, 2005; therefore, the fee deficiency of $50 is due upon the filing of the "renewed 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
Mail Stop Petitions
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) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT SAMUEL SMITH
1263 EMORY ST.
SAN JOSE, CA 95126

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DEC 12 2005

OFFICE OF PETITIONS

In re Application of :
Stephen Ray Wurzburger :
Application No. 10/104,794 : ON PETITION
Filed: March 23, 2002 :
Attorney Docket No. RSSW12 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 14, 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 March 29, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 30, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; and (3) 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 forwarded 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
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WASHINGTON, D.C. 20231
www.uspto.gov
DRW 03-03

Paper No. 7

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

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MAR 12 2003

OFFICE OF PETITIONS

In re Application of :
Hammarlund et al. :
Application No. 10/104,815 : DECISION ON PETITION
Filed: 22 March, 2002 :
Attorney's Docket No. 42P13419 :

This is a decision on the petition under 37 CFR 1.182, filed on 13 February, 2003, to change the second named inventor's name.

The petition is **GRANTED**.

The last name of the second inventor will be changed from "Bakthavathsalu" to --**Baktha**--.

Petitioners have presented a certified copy of the court order for the name change, which occured when the second named inventor became a naturalized citizen of the United States.

Receipt of the declaration reflecting the inventor's current name and citizenship is acknowledged. The inventor's name and citizenship has been corrected in Office records. A corrected Filing Receipt is enclosed as requested.

The application is being forwarded to Technology Center 2100 for examination in due course.

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

Douglas I. Wood
Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

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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APR 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Soga, et al. :
Application No. 10/104,826 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 16869S-027520US :

This is a decision on the petition to revive under 37 CFR 1.137(a), filed February 11, 2005.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely reply to the "Notice of Drawing Inconsistency with Specification" mailed December 15, 2004. This Notice set a thirty day period for reply. No extensions of time under 37 CFR 1.136 were available. No reply having been received, the application became abandoned on January 16, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person

standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

With regards to item (3), petitioner states that he did not receive the "Notice of Drawing Inconsistency with Specification" until January 18, 2005, after the period for reply had expired. Petitioner is requested to supply a copy of the envelope which contained the Office action, showing the postmark date.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

The $500 petition fee has been charged to Deposit Account No. 20-1430, as authorized.

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

PTO/SB/61 (11-03)

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional) 16869S-027520US

First named inventor: Tasao Soga

Art Unit: 2826

Application Number: 10/104,826

Examiner: Leonardo Andujar

Filed: March 22, 2002

Title: Semiconductor Device with Lead-Free Solder

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.
NOTE: A grantable petition requires the following items:
(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee--required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity – fee $ _____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity – fee $ 500 (37 CFR 1.17(l)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment After Allowance (identify the type of reply):

☐ has been filed previously on _____.

☒ is enclosed herewith.

B. The issue fee of $ 1700 _____.

☒ has been paid previously on 02/14/2004 _____.

☐ is enclosed herewith.

PAGE 2/13 * RCVD AT 2/11/2005 8:00:31 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:6503262422 * DURATION (mm-ss):03-10

04/05/2005 AKELLEY 00000017 201430 10104826

01 FC:1452 500.00 DA

PTO/SB/81 (11-03)

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

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. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

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.

February 11, 2005
Date

Signature

(650) 326-2400
Telephone Number

Steve Y. Cho
Typed or printed name

44,612
Registration Number, if applicable

Townsend and Townsend and Crew LLP
Address

Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Address

Enclosures:
☐ Fee Payment
☒ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unavoidable delay
☒ Fee Transmittal

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 (703) 872-9306.

February 11, 2005
Date

Signature

Elizabeth Nesbitt
Typed or printed name of person signing certificate

60418054 v1

PAGE 3/13 * RCVD AT 2/11/2005 8:00:31 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:6503262422 * DURATION (mm-ss):03-10

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

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Soga, et al. :
Application No. 10/104,826 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 16869S-027520US :

This is a decision on the renewed petition to revive under 37 CFR 1.137(a), filed June 9, 2005. The Office apologizes for the delay.

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

The above-identified application became abandoned for failure to timely reply to the "Notice of Drawing Inconsistency with Specification" mailed December 15, 2004. This Notice set a thirty day period for reply. No extensions of time under 37 CFR 1.136 were available. No reply having been received, the application became abandoned on January 16, 2005. Applicants filed a petition to revive under 37 CFR 1.137(a) on February 11, 2005. Applicants asserted that they did not receive the "Notice of Drawing Inconsistency with Specification" until January 18, 2005. However, the petition was dismissed in a decision mailed on April 5, 2005. Applicants were requested to supply a copy of the envelope showing the postmark date.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

With the instant renewed petition, petitioner has explained that envelopes are discarded. However, petitioner stated that it is the firm's practice to date-stamp the back of Office actions with the receipt date. In support thereof, petitioner has supplied a copy of the Office action, with a date-stamp of January 18, 2005 on the back.

Accordingly, in view of the above, and due to the facts and circumstances in this instance, it is concluded that petitioner has demonstrated that the entire period of delay was unavoidable.

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] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

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United States Patent and Trademark Office
P.O. Box 1450
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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS
NEW YORK NY 10038-2714

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SEP 2 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Qiao, et al.	:	
Application No. 10/104,843	:	DECISION ON PETITION
Filed: March 22, 2002	:	TO WITHDRAW
Attorney Docket No. Z9995.0211	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 13, 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, 'case transferred to a different agent", 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: John Staley
5802 Flintshire Lane
Dallas, TX 75252

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OFFICE OF PETITIONS

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS
NEW YORK, NY 10038-2714

In re Application of :
Chumning Qiao, et al. :
Application No. 10/104,843 : DECISION ON PETITION
Filed: March 22, 2002 : TO WITHDRAW
Attorney Docket No. : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 31, 2006.

The request **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Dickstein, Shapiro, Morin & Oshinsky, LLP has been revoked by the assignee of the patent application on October 9, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JOHN STALEY
5802 FLINTSHIRE LANE
DALLAS, TX 75232

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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FEB 0 4 2008

OFFICE OF PETITIONS

In re Application of

Smith, et al.

Application No. 10/104,862

Filed: March 22, 2002

Attorney Docket No. CML00110N (72800)

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Appeal Brief mailed September 27, 2006, which set a shortened period for reply of one (1) month from its mailing date. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on November 28, 2006. A Notice of Abandonment was mailed on June 19, 2007.

The appeal brief filed August 3, 2007, is noted.

The application is being forwarded to Technology Center 2100, GAU 2155 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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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FEB 03 2003

OFFICE OF PETITIONS

In re Application of :
Adelaide et al. :
Application No. 10/104,912 : DECISION GRANTING
Filed: March 22, 2002 : PETITION UNDER
Attorney Docket No. FR010041 : 37 CFR 1.47(a)
For: METHOD OF SIMULTANEOUS :
FORMAT REDUCTION AND DECODING :
OF ENCODED VIDEO SIGNALS :

This is in response to the petition under 37 CFR 1.47(a), filed October 23, 2002. Petitioner submitted a four-month of extension to reply. Accordingly, the petition is timely filed.

The petition is granted.

Petitioner showed that Olivier Elbaz, the non-signing inventor, cannot be located after diligent efforts. Specifically, the Declaration of Facts of Claudine Laublin established that multiple attempts were made to obtain the current address of Mr. Elbaz; however, to no avail.

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. Notice of the filing of this application will be published in the Official Gazette.

The $130.00 petition fee has been charged to Deposit Account No. 14-1270, as authorized by petitioner.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

ZymoGenetics, Inc.
1201 Eastlake Avenue East
Seattle WA 98102

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JUL 2 3 2002

OFFICE OF PETITIONS

In re Application of
Pressnell, et al.
Application No. 10/104,919
Filed: March 22, 2002
Attorney Docket No. 01-12
FOR: HUMAN CYTOKINE RECEPTOR

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed May 24, 2002 (certificate of mailing date May 13, 2002), requesting that the above-identified application be accorded a filing date of March 22, 2002, instead of the presently accorded date of March 23, 2002.

Petitioners allege that the application was deposited in "Express Mail" service with the U. S. Postal Service (USPS), on March 22, 2002. Petitioners provided a copy of the express mail certificate for Express Mail Label No. EL862353923US with a date of deposit of March 22, 2002, a copy of the Express Mail label in question with a March 23, 2002 date-in, a post office receipt dated March 22, 2002, a declaration of Marianne Carello, the person who prepared the application and deposited it in Express Mail, and a copy of petitioners' Express Mail Log book.

The date-in on the Express Mail label is March 23, 2002, not March 22, 2002. The declaration by Ms. Carello is not persuasive because it was created roughly a month and a half after the deposit of the application into Express Mail. The log book entry, likewise, was not created within one business day of the alleged March 22, 2002 deposit of the application into Express Mail, as 37 CFR 1.10(d) requires. This evidence does not establish the papers in question were deposited into Express Mail on March 22, 2002.

Fortunately, an independent search of the USPS Shipping Center Track and Confirm database reveals that a package associated with Express Mail Label no. EL862353923US was accepted by the USPS on March 22, 2002. In addition, the post office receipt, dated March 22, 2002, submitted by petitioners lists the Express Mail number in question.

In view of the above, the Commissioner is convinced that the application was deposited as "Express Mail" with the US Postal Service on March 22, 2002.

The petition is granted.

As this is a feeless petition, no petition fee has been or will be charged.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of **March 22, 2002.**

Telephone inquiries concerning this matter should be directed to the undersigned at (703)308-6712.

E. Shirene Willis

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

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

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SEP 2 0 2002

OFFICE OF PETITIONS

SUN MICROSYSTEMS INC.
901 SAN ANTONIO RD.
MS PALO1-521
PALO ALTO, CA 94303

In re Application of :
Lee, et al. :
Application No. 10/104,923 : DECISION NOTING JOINDER
Filed: March 21, 2002 : OF INVENTOR AND PETITION
Docket No.: P5883 US : UNDER 37 CFR 1.47(a) MOOT
For: MESSAGE ROUTING IN A TORUS :
INTERCONNECT :

This is in response to the petition under 37 CFR 1.47(a), filed June 3, 2002 and supplemented August 8, 2002.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The required petition fee of $130.00 has been charged to Deposit Account No. 50-0585. No extension of time is due in connection with this matter, hence, the previously submitted petition for extension of time fee of $110.00 has been refunded to Deposit Account No. 50-0585.

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

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

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

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ISIS PHARMACEUTICALS, INC.
1896 RUTHERFORD ROAD
CARLSBAD, CA 92008

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of :
David J. Ecker, et. al. :
Application No. 10/104,949 : DECISION ON PETITION
Filed: March 22, 2002 : TO WITHDRAW
Attorney Docket No. IBIS-0007US.C1 : FROM RECORD
:

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

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

A review of the file record indicates that the power of attorney to ISIS PHARMACEUTICALS, INC. has been revoked by the assignee of the patent application on July 24, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

cc: WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Peter Mykola Scarrott :
Application No. 10/104,988 :
Filed: March 21, 2002 :
Attorney Docket No. 6298-391

This is a decision on the petition, filed September 21, 2004, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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.

This matter will be forwarded to Technology Center AU 3743 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement and Amendment.

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

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

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Paper No. 10

IRVING N. FEIT
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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OFFICE OF PETITIONS

In re Application of :
Zhen Huang :
Application No. 10/104,995 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 1038-6 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed September 17, 2003, 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 at midnight on October 17, 2003.

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

The 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 May 9, 2005 is accepted as having been unintentionally delayed.

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

The application file is being forwarded to Technology Center 1600, Art Unit 1624 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Zhen Huang
1560 Kinglet Lane
Marietta, GA 30062

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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AUG 17 2009

OFFICE OF PETITIONS

In re Application of :
Huang : DECISION ON APPLICATION
Application No. 10/104,995 : FOR PATENT TERM ADJUSTMENT
Filed: March 22, 2002 :
Atty. Dkt. No.: 13100-0012 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)", filed December 22, 2008.

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 October 22, 2008, indicated a patent term adjustment (PTA) to date of zero days. The instant application for PTA was timely filed December 22, 2008, at the time of issue fee payment.

The correct PTA at the time of the allowance remains zero days, as indicated on the Determination of Patent Term Adjustment mailed October 22, 2008.

Applicant does not dispute the adjustments to date totaling 543 days. Applicants also have not disputed the reductions to date of 630 days.

Instead, applicant argues that the application is entitled to further adjustment of 52 days and 122 days, or, an additional 174 days in total.

Applicant argues in pertinent part as follows:

> "[R]econstruction of the patent application was attributed to USPTO and not Applicant and therefore, is USPTO delay. As such, the USPTO delay should include the *whole period* calculated from the second Office Action mailed May 1, 2007, and the Petition to Revive and Amendment and Response to Office Action filed on May 9, 2005.
>
> Thus, Applicant submits that the USPTO delay should also include delay calculated from the Response to Notice under 37 C.F.R § 1.251 and Papers Provided for File Reconstruction filed June I5, 2006, and the Reconstruction Notice under 37 C.F.R. § 1.251, mailed April 24, 2006 (52 days), and the 4 months within which the USPTO was to "respond" to the Response to Notice under 37 C.F.R § 1.251 and Papers Provided for File Reconstruction, filed June 15, 2006 (122 days), which is a total of 174 days. Accordingly, the omission of the patent term adjustment of 174 days was made in error and should be added back to the patent term adjustment. The total USPTO delay should

be 717 days (543 days + 174 days). (Alternatively, the USPTO delay could be calculated as the sum of period 1) above (118 days) and the whole period calculated from the second Office Action mailed May 1,2007 and the Petition to Revive and Amendment and Response to Office Action filed on May 9, 2005 (599 days).)."

The calculation of adjustment has been carefully reviewed in response to applicant's application for patent term adjustment. Applicant's arguments have been carefully considered but are not found convincing. Moreover, applicant fails to provide any statutory authority for the relief sought.

Applicant argues that the application is entitled to adjustment in connection with the mailing of the Notice under 37 CFR 1.251. The Office acknowledged delay in connection with the mailing of the Notice under 37 CFR 1.251 mailed April 24, 2006. In this regard, the application was properly accorded an adjustment of 227 days pursuant to 37 CFR 1.702(a)(2).

Applicant argues that the application is entitled to adjustment in connection with the mailing of an Office action in response to receipt of applicant's reply to the Notice under 35 CFR 1.251. The Office acknowledged delay in connection with the mailing of a response to applicant's reply to the Notice under 37 CFR 1.251. In this regard, the application was properly accorded an adjustment of 198 days pursuant to 37 CFR 1.702(a)(2) in connection with the Restriction Requirement mailed April 30, 2007.

Further review of the calculation of adjustment reveals that the Office neglected to assess a reduction in connection with the petition to revive filed May 9, 2005. The application is entitled to further reduction of 693 days in accordance with 37 CFR 1.704(c)(3)(ii). The reduction commenced October 18, 2003, the date the application became abandoned, and ended September 9, 2005, the date that is four months after the date that a grantable petition to revive was filed. As the period of reduction of 509 days accorded under 37 CFR 1.704(b) in connection with applicant's reply to the Restriction Requirement mailed September 17, 2003 overlaps with the period of reduction of 693 days accorded pursuant to 37 CFR 1.704(c)(3)(ii), the period of reduction of 509 days has been removed from the overall calculation of adjustment. See, enclosed.

In view thereof, as of the time of allowance, the application remains entitled to an adjustment of zero days, (adjustments totaling 543 days (the sum of 118 days + 227 days + 198 days) less reductions totaling 814 days (the sum of 693 days + 30 days + 91 days)).

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

The required application for patent term adjustment fee of $200.00 has been charged to applicant's deposit account, as authorized.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

PTA Calculations for Application: 10/104995			
Application Filing Date:	03/22/2002	PTO Delay (PTO):	543
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	630
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-184		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
71	08/16/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		693	
70	08/16/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	509		
63	10/22/2008	MAIL NOTICE OF ALLOWANCE			
62	10/21/2008	ISSUE REVISION COMPLETED			
61	10/21/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	10/21/2008	CASE DOCKETED TO EXAMINER IN GAU			
59	10/15/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
58	10/15/2008	DOCUMENT VERIFICATION			
57	10/14/2008	NOTICE OF ALLOWABILITY			
56	10/08/2008	DATE FORWARDED TO EXAMINER			
55	10/03/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
54	10/08/2008	DATE FORWARDED TO EXAMINER			
53	10/03/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		91	43
52	10/08/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
51	10/03/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
50	10/03/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
49	09/29/2008	MAIL ADVISORY ACTION (PTOL - 303)			
48	09/25/2008	ADVISORY ACTION (PTOL-303)			
47	09/04/2008	NEW OR ADDITIONAL DRAWING FILED			
46	09/17/2008	DATE FORWARDED TO EXAMINER			
45	09/04/2008	AMENDMENT AFTER FINAL REJECTION			
		REQUEST FOR EXTENSION OF TIME - GRANTED			

44	09/04/2008				
43	04/04/2008	MAIL FINAL REJECTION (PTOL - 326)			
42	03/31/2008	FINAL REJECTION			
41	01/08/2008	DATE FORWARDED TO EXAMINER			
40	12/20/2007	RESPONSE AFTER NON-FINAL ACTION		30	36
39	12/20/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	09/07/2007	CORRESPONDENCE ADDRESS CHANGE			
37	09/07/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
36	08/20/2007	MAIL NON-FINAL REJECTION			
35	08/16/2007	NON-FINAL REJECTION			
34	07/07/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
33	06/05/2007	DATE FORWARDED TO EXAMINER			
32	06/01/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
31	08/28/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	08/28/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	05/01/2007	MAIL RESTRICTION REQUIREMENT	198		21
28	04/30/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
27	04/30/2007	DATE FORWARDED TO EXAMINER			
26	05/09/2005	RESPONSE TO ELECTION / RESTRICTION FILED		509	11
25	05/01/2007	MAIL NOTICE OF RESCINDED ABANDONMENT			
24	04/30/2007	NOTICE OF RESCINDED ABANDONMENT IN TCS			
23	04/30/2007	CASE DOCKETED TO EXAMINER IN GAU			
22	06/27/2006	RECONSTRUCTION COMPLETED			
21	06/15/2006	RESPONSE TO 37 CFR 1.251 NOTICE - PAPERS PROVIDED FOR FILE RECONSTRUCTION			
20	04/24/2006	MAIL RECONSTRUCTION NOTICE - PENDING APPLICATION	227		26
19	04/24/2006	RECONSTRUCTION NOTICE UNDER 37 CFR 1.251 - PENDING APPLICATION			
18	04/24/2006	RECONSTRUCTION OF FILE - BEGIN			
17	04/03/2006	FILE MARKED LOST			
16	12/19/2005	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
15	05/09/2005	PETITION ENTERED			

14	12/15/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
13	05/10/2004	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
12	05/06/2004	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
11	09/17/2003	MAIL RESTRICTION REQUIREMENT	118		-1
10	09/16/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
9	11/26/2002	CASE DOCKETED TO EXAMINER IN GAU			
8.7	10/09/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	10/09/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	09/26/2002	APPLICATION DISPATCHED FROM OIPE			
6	09/25/2002	APPLICATION IS NOW COMPLETE			
5	08/27/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
4	08/27/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
2	04/05/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/22/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

Mail Date: 04/30/2010

Applicant	: Zhen Huang	: DECISION ON REQUEST FOR
Patent Number	: 7592446	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/104,995	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1256** 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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Paper No. 6

MAIL

JUN 3 0 2004

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2100**

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

In re Application of:
Timothy TUTTLE, et al.
Application No. 10/105,018
Filed: March 21, 2002
For: ASYNCHRONOUS MESSAGING USING A NODE SPECIALIZATION ARCHITECTURE IN THE DYNAMIC ROUTING NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 1, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

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

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

cc: Townsend, Townsend & Crew
Two Embarcadero Center
8th Floor
San Francisco, CA 94111-3834

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A. SIDNEY JOHNSTON
CESARI AND MCKENNA
88 BLACK FALCON AVENUE
BOSTON MA 02210

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JAN 31 2006

OFFICE OF PETITIONS

In re Application of :
Steven R. Kleiman et al :
Application No. 10/105,034 : ON PETITION
Filed: March 21, 2002 :
Attorney Docket No. NWK-002 :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 16, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2187 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 : January 31, 2006

COPY MAILED

JAN 31 2006

OFFICE OF PETITIONS

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Steven R. Kleiman et al
Application No. :10/105,034
Filed :March 21, 2002

The above-identified application has been assigned Patent No. 6,996,671 and an issue date of February 7, 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 February 7, 2006:

"All reference to Patent No. 6,996,671 to Steven R. Kleiman et al of California for A METHOD FOR WRITING CONTIGUOUS ARRAYS OF STRIPES IN A RAID STORAGE SYSTEM USING MAPPED BLOCK WRITES appearing in the Official Gazette of February 7, 2006 should be deleted since no patent was granted."

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

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AUG 20 2008

In re Application of :
EDGE, et al. :
Application No. 10/105,035 : DECISION ON PETITION
Filed: March 21, 2002 : TO WITHDRAW
Attorney Docket No. **2006866-0009** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 3, 2008.

The request is APPROVED.

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

The request was signed by Brenda Jarrell on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: ALBERT EDGE
4A KIRKLAND PLACE
CAMBRIDGE, MA 02138

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ROBIN L. TESKIN
HUNTON & WILLIAMS - IP DEPT.
1900 K STREET, N.W., SUITE 1200
WASHINGTON DC 20006-1109

MAILED

MAY 10 2010

OFFICE OF PETITIONS

In re Application of :
Albert Edge et al. :
Application No. 10/105,035 : ON PETITION
Filed: March 21, 2002 :
Attorney Docket No.: 75820.500305 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 18, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 19, 2009 for failure to timely file a reply to the Final Office action mailed December 18, 2008 which set a three (3) month shortened statutory period for reply. Accordingly, a Notice of Abandonment was mailed July 16, 2009.

The Notice of Appeal filed March 18, 2010, with the instant petition, in response to the Final Office Action, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

Additionally, however, 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 is being mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This matter is being referred to Technology Center 1644 for processing of the Notice of Appeal.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/105,055	03/20/2002	2613	579	020554-000220US	9	36	2

CONFIRMATION NO. 6740

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

CORRECTED FILING RECEIPT

OC000000012804146

Date Mailed: 05/27/2004

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

Applicant(s)

Adityo Prakash, Redwood Shores, CA;
Eniko Fodor, Redwood Shores, CA;

Assignment For Published Patent Application

Pulsent Corporation, Milpitas, CA;

Domestic Priority data as claimed by applicant

This application is a CIP of 09/550,705 04/17/2000 PAT 6,600,786

Foreign Applications

If Required, Foreign Filing License Granted: 04/13/2002

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Decoder for decoding segment-based encoding of video data using segmentation performed at a decoder

Preliminary Class

375

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

GRANTED

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

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

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

NOT GRANTED

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

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KILPATRICK STOCKTON LLP
1100 Peachtree Street
Suite 2800
ATLANTA GA 30309

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JUN 11 2008

OFFICE OF PETITIONS

In re Application of :
SANDHU et al. :
Application No. 10/105,084 :
Filed: 03/22/2002 :
Attorney Docket No. 51715-298860 :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 5, 2002 (certificate of mailing of June 28, 2002). The petition was recently forwarded to the Office of Petitions. The undersigned immediately reviewed the matter and rendered the following decision upon receiving the petition. The Office sincerely apologizes for any inconvenience.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor(s). Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a). No additional petition fee is necessary for filing a request for reconsideration.

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

Applicants lack item (1) as set forth above.

As to item (1), applicants assert that Stephen Rees, the non-signing inventor, constructively refuses to sign the declaration for the present application. Specifically, in his declaration of facts, Tim Mahota, General Counsel for Integral Development Corporation, he stated that Mr.

Rees was provided with a Declaration, Power of Attorney and Petition and an Assignment. However, it does not appear that applicants presented Mr. Rees with a complete copy of the application papers as filed with their request to sign the Declaration. Additionally, applicants did not provide the Office with a statement for all persons with firsthand knowledge of the events, such as Maria Tree.

Pursuant to MPEP 409.03(d)(II),

> 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. 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. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. 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).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or

in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

To demonstrate that the Mr. Rees refuses to join in the application, applicants must show on renewed petition that they mailed a complete copy of the present nonprovisional application, including the specification, claims and drawings, to the non-signing inventor, personally or his designated representative, and that he did not respond to or refused the request to sign the declaration. The circumstances of any refusal to join in the filing of the application must be made by all persons with firsthand knowledge of the event.

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

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

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

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

Correspondence may also be submitted via the Electronic Filing System (EFS-Web) of the USPTO.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

LYON & LYON LLP
633 WEST FIFTH STREET
SUITE 4700
LOS ANGELES CA 90071

In re Application of
Bruno, *et al.*
Application No. 10/105,091
Filed: March 22, 2002
Attorney Docket Number: 272/137

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

This is in response to the March 22, 2002 petition Under 37 C.F.R. §1.47(a).

HISTORY

Applicant filed the above-identified application on March 22, 2002 naming Maria Bruno, Jenna Tagliaferri, Luke Lawson, Mark J. Logan, and Russ Mumper as joint inventors. However, the declaration did not have the signature of co-inventor Bruno, required by 37 C.F.R. §1.53.

On May 1, 2002, the Office of Initial Patent Examination mailed a notice to file missing parts (hereinafter "the notice") to the address of record. A two month extendable deadline was set for filing a reply. The notice noted that the statutory basic application filing fee had not been filed.

LAW

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

> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(l) and the last known address of the nonsigning inventor. The Patent and Trademark Office shall, except in a continued prosecution application under §1.53(d), forward notice of the filing of the application to the nonsigning inventor at said address and publish notice of the filing of the application in the Official Gazette. The nonsigning inventor may subsequently join in the application on filing an oath or declaration complying with §1.63.

ANALYSIS

It is noted that the petition identifies itself as pertaining to application no. 09/371,619. However, it is found in the application file wrapper for application no. 10/105,091. Application no. 10/105,091 is the continuation of application no. 09/317,619, and it is assumed that the reference to application no. 09/371,619 was an error.

Among the requirements for a grantable petition is the requirement that the declaration be

accompanied by the last known address of the nonsigning inventor.[1] No designation of the last known address has been made with this petition.

Petitioner is reminded that for rule 47 purposes, the last known address is the one at which the non-signing inventor customarily receives mail.[2] Ordinarily, that address is the non-signing inventor's residential address.[3]

Furthermore, Petitioner has failed to demonstrate that the nonsigning inventor has been provided with a complete copy of the application. In fact, Petitioner has nowhere even alleged that such a step was taken. All that can be deduced from the record provided is that "application papers" requiring the inventor's signature were sent to the inventor.

Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.[4] Under the provisions of 37 C.F.R. §1.63(b)(2), a valid declaration must "state that the person making the oath or declaration has reviewed and understands the contents of the application, including the claims, as amended by any amendment specifically referred to in the oath or declaration." Thus, an inventor cannot make a valid declaration without having had the opportunity to review the application papers. This is why the Office requires that a copy of the papers be sent or delivered to the nonsignor before rule 47 status will be granted. Simply put, an inventor must be given the opportunity to review the entire application before a valid declaration can be made. Until such time as the application has been sent or delivered to the nonsignor, it cannot be said that the inventor has been given a *bona fide* opportunity to make the required declaration.

Petitioner is advised to consult the M.P.E.P. §409.03(d) for further information on what kind of showing is required to prove that the nonsigning inventor has refused to sign the declaration.

Because of the foregoing, this petition is *dismissed.*

Finally, Petitioner is reminded that the statutory basic filing fee has yet to be received, as noted in the May 1, 2002 notice to file missing parts, which therefore remains outstanding.

As authorized, the $130.00 petition fee has been charged to Petitioner's deposit account (da#12-2475).

---

[1] Petition under 37 C.F.R.§1.47, page 2, last paragraph.

[2] M.P.E.P. §409.03(e)

[3] *Id.*

[4] M.P.E.P. §409.03(d)

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 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.47(a)".

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: Special Program Law Office

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) 306-5593.

Scott M. Ledford
Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LYON & LYON LLP / VALENTIS, INC.
633 W. FIFTH STREET, SUITE 4700
LOS ANGELES, CA 90071

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JAN 2 1 2003

OFFICE OF PETITIONS

In re Application of
Maria Bruno et al
Application No. 10/105,091
Filed: March 22, 2002
Atty Docket No. 272/137

:DECISION NOTING JOINDER OF
:INVENTOR AND PETITION UNDER
:37 1.47(a) MOOT

Papers filed on July 9, 2002 in response to a Notice to File Missing Parts of Nonprovisional Application mailed May 1, 2002 and "Decision Refusing Status Under 37 CFR 1.47(a)," mailed June 28, 2002, included a Declaration signed by previously nonsigning inventor Maria Bruno in compliance with 37 CFR 1.63.[1]

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Office of Initial Patent Examination Division for pre-examination processing.

Inquiries related to this decision may be addressed to the undersigned at (703) 305-8680.

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

[1] Although the declaration filed on July 9, 2002 bears only the signature of joint inventor Maria Bruno, the declaration acknowleges being a "first and joint inventor" with the other named inventors set forth in the declaration received with the application on March 22, 2002.

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PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

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MAR 2 2 2007

OFFICE OF PETITIONS

In re Application of :
Allan S. Lau, et al. :
Application No. 10/105,100 : DECISION ON PETITION
Filed: March 21, 2002 : TO WITHDRAW
Attorney Docket No. 54099-8002.US03 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed November 20, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on September 22, 2006.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: CYTOPHARM, INC.
6F. #6, SEC. 1. JUNG-SHING ROAD
WUGU SHIANG, TAIPEI 248
TAIWAN, ROC

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JACOBSON, PRICE, HOLMAN & STERN
PROFESSIONAL LIMITED LIABILTY COMPANY
400 SEVENTH STREET N.W.
WASHINGTON DC 20004

RECEIVED

DEC 23 2008

OFFICE OF PETITIONS

In re Patent No. 6,789,013 :
Issue Date: September 7, 2004 :
Application No. 10/105,195 :
Filed: March 26, 2004 :
Attorney Docket No. P66612US1 :

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 April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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PROFESSIONAL LIMITED LIABILTY COMPANY
400 SEVENTH STREET N.W.
WASHINGTON DC 20004

RECEIVED

DEC 23 2008

OFFICE OF PETITIONS

In re Patent No. 6,789,013 :
Issue Date: September 7, 2004 :
Application No. 10/105,195 : ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. P66612US1 :

This is a decision on the petition under 37 CFR 1.378(c), filed September 12, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 7, 2008 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Files Repository.

April M. Wise
Petitions Examiner
Office of Petitions

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Rhonda Sheldon
Trop, Pruner & Hu LLP
1616 S. Voss Road, Suite 750
Houston, TC 77057

MAILED

APR 17 2007

Technology Center 2100

In re Application of:
John Brizek
Application No. 10/105,201
Filed: March 25, 2002
For: Security Protocols for Processor Based Systems

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO Consider a 103(c) Showing

This is a decision on the petitions filed on July 3, 2006, January 4, 2007 and January 8, 2007 under 37 CFR § 1.181(a) to require consideration of a 35 USC 103 (c)(1) statement.

File Record History:

A first office action on the merits was mailed out July 14, 2005, containing 35 USC 103 rejections using the Glew reference. This reference only qualifies as prior art under 102(e).

A response to the first office action on the merits and the 35 USC 103 rejections was received on October 7, 2005, which did not contain a 35 USC 103 (c)(1) statement.

On February 7, 2006, a final action issued maintaining the 35 USC 103 rejections.

On February 28, 2006 and after final response presented for the first time evidence that the reference and the application were commonly owned at the time of the invention.

On March 20, 2006 an advisory action was issued which indicated that the showing under 35 USC 103 was not seasonably presented. See MPEP 715.09(a).

On April 17, 2006 a supplemental response to the final rejection was filed stating that MPEP 715.09(a) does not apply as this section only applies to affidavits, declarations and "other evidence traversing rejections as the 35 USC 103(C)(1) is only a statement and isn't an affidavit, declaration nor is it evidence and that applicant's attorney just became aware of co-ownership as the reference doesn't indicate it's ownership.

On May 1, 2006 a second advisory action was issued which indicated that the showing under 35 USC 103 will not be entered because applicant failed to provide a good and sufficient reasons why the evidence is necessary and was not earlier presented.

On July 3, 1996 a Petition was filed stating that the language of 35 USC 103(c) states "subject matter.... shall not preclude patentability" this language is mandatory and not permissive.

On January 4, 2007 a second petition was filed, which complains of the delay in deciding the July 3, 2006 petition and requesting a decision be made.

On January 8, 2007 an attachment to the January 4, 2007 petition was filed, which was a copy of the July 3, 2006 petition.

The delay in considering these petitions is regretted.

A review of MPEP 706.02(l)(2)(II) indicates that the statement of common ownership under 35 USC 103(c)(1) is evidence and therefore MPEP 715.09(a) indicates that it was proper to indicate that the evidence was not seasonably presented. Petitioner also argues that they were not aware that the Glew reference was commonly owned until after final and therefore this was presented as soon as petitioner was aware of this avenue to overcome the rejections. Failure to recognize or know common ownership does not preclude one the obligation of timely presentation of evidence. As to the argument that the language of 35 USC 103(c) is mandatory and not permissive, we are in agreement that when the evidence of common ownership is admitted into the file then 35 USC 103(c) is mandatory and not permissive however the evidence has not been seasonably presented and therefore there is no evidence admitted to mandatorly overcome the 35 USC 103 rejections.

In view of the above stated reasons, the 35 USC 103 rejections are maintained.

The petition is **Dismissed**.

The application continues to await a decision by the board of appeals.

Any inquiry concerning this decision should be directed to the Tod Swann whose telephone number is (571) 272-3612.

James Dwyer, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

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Rhonda Sheldon
Trop, Pruner & Hu LLP
1616 S. Voss Road, Suite 750
Houston, TC 77057

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SEP 10 2007

TECHNOLOGY CENTER 2100

In re Application of:
John Brizek
Application No. 10/105,201
Filed: March 25, 2002
For: Security Protocols for Processor Based Systems

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO Consider a 103(c) Showing

This is a decision on the petition under 37 C.F.R. § 1.181(a) asking for review of the decision mailed April 17, 2007 dismissing the petitions filed on July 3, 2006, January 4, 2007 and January 8, 2007 under 37 CFR § 1.181(a) to require consideration of a 35 USC 103 (c)(1) statement.

File Record History:

A first office action on the merits was mailed out July 14, 2005, containing 35 USC 103 rejections using the Glew reference. This reference only qualifies as prior art under 102(e).

A response to the first office action on the merits and the 35 USC 103 rejections was received on October 7, 2005, which did not contain a 35 USC 103 (c)(1) statement.

On February 7, 2006, a final action issued maintaining the 35 USC 103 rejections.

On February 28, 2006 and after final response presented for the first time evidence that the reference and the application were commonly owned at the time of the invention.

On March 20, 2006 an advisory action was issued which indicated that the showing under 35 USC 103 was not seasonably presented. See MPEP 715.09(a).

On April 17, 2006 a supplemental response to the final rejection was filed stating that MPEP 715.09(a) does not apply as this section only applies to affidavits, declarations and "other evidence traversing rejections as the 35 USC 103(C)(1) is only a statement and isn't an affidavit, declaration nor is it evidence and that applicant's attorney just became aware of co-ownership as the reference doesn't indicate it's ownership.

On May 1, 2006 a second advisory action was issued which indicated that the showing under 35 USC 103 will not be entered because applicant failed to provide a good and sufficient reasons why the evidence is necessary and was not earlier presented.

On July 3, 1996 a Petition was filed stating that the language of 35 USC 103(c) states "subject matter.... shall not preclude patentability" this language is mandatory and not permissive.

On January 4, 2007 a second petition was filed, which complains of the delay in deciding the July 3, 2006 petition and requesting a decision be made.

On January 8, 2007 an attachment to the January 4, 2007 petition was filed, which was a copy of the July 3, 2006 petition.

The April 17th, 2007 dismissal was on the following grounds.

A review of MPEP 706.02(l)(2)(II) indicates that the statement of common ownership under 35 USC 103(c)(1) is evidence and therefore MPEP 715.09(a) indicates that it was proper to indicate that the evidence was not seasonably presented. Petitioner also argues that they were not aware that the Glew reference was commonly owned until after final and therefore this was presented as soon as petitioner was aware of this avenue to overcome the rejections. Failure to recognize or know common ownership does not preclude one the obligation of timely presentation of evidence. As to the argument that the language of 35 USC 103(c) is mandatory and not permissive, we are in agreement that when the evidence of common ownership is admitted into the file then 35 USC 103(c) is mandatory and not permissive however the evidence has not been seasonably presented and therefore there is no evidence admitted to mandatorly overcome the 35 USC 103 rejections.

The renewed petition asks for review of the Group Director's decision by the Office of the Deputy Commissioner for Patent Examination Policy as MPEP 715.09 is not specifically directed to statements of common ownership, even if the statement of common ownership is evidence, it was timely submitted with good and sufficient reason as to why it was not presented earlier and that statue trumps the rule.

A review of a Group director's petition decision by the Office for Patent Examination Policy is not timely until the petition has been denied. Therefore this petition will be treated a request for reconsideration of the earlier decision.

Below is MPEP 706.02(l)(2)(II) which clearly shows that the statement of common ownership under 35 USC 103(c)(1) are evidence.

> II. **EVIDENCE** REQUIRED TO ESTABLISH COMMON OWNERSHIP
> It is important to recognize just what constitutes sufficient **evidence** to establish common ownership at the time the invention was made.

MPEP 715.09 clearly shows that it is not limited to just affidavits or declarations under 1.31. See the **bolded** language below.

> Affidavits or declarations under 37 CFR 1.131 must be timely presented in order to be admitted. Affidavits and declarations submitted under 37 CFR

> 1.131 and **other evidence traversing rejections** are considered timely if submitted:
> (A) prior to a final rejection;
> (B) before appeal in an application not having a final rejection; *
> (C) after final rejection **>, but before or on the same date of filing an appeal, upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented in compliance with 37 CFR 1.116(e); or
> (D) after the prosecution is closed (e.g., after a final rejection, after appeal, or after allowance) if applicant files the affidavit or other evidence with a request for continued examination (RCE) under 37 CFR 1.114 in a utility or plant application filed on or after June 8, 1995; or a continued prosecution application (CPA) under 37 CFR 1.53(d) in a design application.

The reason given that the statement of common ownership is timely submitted is that the statement was provided as soon as petitioner was aware of such evidence and that because a reason was given as to why the statement was filed after final the that should suffice. Seasonable presentation requires a good and sufficient reason as to why the statement was not presented earlier and not just a reason. I fail to see how failure to recognize or know of common ownership is a good and sufficient reason. There is no question that when a statue and a rule conflict that the statue wins out but in the current fact pattern we do not have a conflict between the two. The rule stops the statement from being entered so the statue cannot be considered.

In view of the above stated reasons, the 35 USC 103 rejections are maintained.

The petition is **Denied**.

Any further petition on this decision must be filed within TWO MONTHS of the mail date of this decision.

The application continues to await a decision by the board of appeals.

Any inquiry concerning this decision should be directed to the Tod Swann whose telephone number is (571) 272-3612.

James Dwyer, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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OFFICE OF PETITIONS

In re Application of :
Toshiro SAITO et al. :
Application No. 10/105,230 :
Filed: March 26, 2002 :
Attorney Docket No. 503.38406VX1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 21, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 21, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 22, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (3). The statement required in item (3) above is improper because it states that the "entire delay in filing the required payment" and not the "entire delay in filing the required reply..." as required.

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

Application No. 10/105,230

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 David Bucci at (571) 272-7099.

Brian Hearn
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
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1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of :
Toshiro SAITO et al. :
Application No. 10/105,320 : ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. 503.38406VX1 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 12, 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 April 21, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 22, 2004.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/185,897, filed July 21, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

Copied from 10105320 on 11/01/2006

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Paper No. 11

MCGINN & GIBB, PLLC
8321 Old Courthouse Road, Suite 200
Vienna, VA 22182-3817

FEB 17 2005

In re Application of:
Randolf M. Tromp
Serial No.: 10/105,258
Filed: March 26, 2002
Attorney Docket No.: **YOR920010208US1**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed December 05, 2003, and resubmitted on September 01, 2004 and December 03, 2004. The petition has been treated as a petition to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely file a response to the Office action mailed on March 28, 2003. A Notice of Abandonment was mailed on November 18, 2003.

Petitioner asserts that the Office action mailed on March 28, 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 no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action 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 action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition, and the attachment, is sufficient to establish a showing of non-receipt of the Office action mailed March 28, 2003.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for 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.

ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of :
Yuki Ito : DECISION ON PETITION
Application No. 10/105,260 :
Filed: March 26, 2002 :
Attorney Docket No. 020358 :

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed August 17, 2006.

The above-identified application became abandoned for failure to timely file a proper response to the non-final Office action mailed December 20, 2004. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No proper reply considered received and no extension of time obtained, the application became abandoned on March 21, 2005. A Notice of Abandonment was mailed on August 11, 2006.

In response, petitioner timely filed the instant petition. In support of the petition to withdraw the holding of abandonment, petitioner cites the following:

- He was advised by the examiner that the Office action would be in effect withdrawn, as the prior art rejections therein did not pertain to the subject matter of the instant application.
- By letter mailed January 10, 2005, applicant was advised that the Office action dated December 20, 2004 should be disregarded.
- Agent for the applicant filed a response on January 12, 2005.

§ 1.2 Business to be transacted in writing.

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

In this instance, the written record fully supports petitioner's arguments. Prior to the expiration of the shortened statutory period for reply, the Office mailed the communication advising applicant to disregard the Office action mailed December 20, 2004. Further, within the shortened statutory period for reply, applicant filed a response requesting that all prior art rejections be withdrawn and that the claims be properly examined on the merits.

Accordingly, withdrawal of the holding of abandonment is warranted.

In view thereof, the Notice of Abandonment mailed August 11, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is GRANTED.

No fee is required on petition under § 1.181.

Technology Center AU 3752 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for examination in light of the Office letter mailed January 10, 2005.

Telephone inquiries concerning 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

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

Paper No. 14

FISH & RICHARDSON
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON DC 20005-3500

In re Application of
Shunpei Yamazaki et al
Application No. 10/105,282
Filed: March 26, 2002
Attorney Docket No. 12732-097001/US5627

ON PETITION

This is a decision on the petition, filed October 31, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 31, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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HUMAN GENOME SCIENCES, INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE, MD 20850

Applicant: Rosen
Appl. No.: 10/105,299
Filing Date: March 26, 2002
Title: HADDE71 POLYPETIDES
Attorney Docket No.: PS950
Pub. No.: US 2007/0032413 A1
Pub. Date: February 8, 2007

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This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 6, 2007, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains material errors, in that the number of megatables appeared as zero.

The request is DISMISSED as moot.

Since the application has already issued as U.S. Patent No. 7,368,527 on May 6, 2008, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

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

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Paper No.

HUMAN GENOME SCIENCES INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

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SEP 02 2009

OFFICE OF PETITIONS

In re Patent No. 7,244,825	:	DECISION ON LETTER
Rosen, et al.	:	REGARDING
Issue Date: May 6, 2008	:	PATENT TERM ADJUSTMENT
Application No. 10/105,299	:	CALCULATION
Filed: March 26, 2002	:	
Docket No.: PS950	:	

This is a decision on the, " LETTER REGARDING PATENT TERM ADJUSTMENT CALCULATION" timely[1] filed on July 2, 2008 requesting that the Office reconsider the patent term adjustment and adjust the patent term adjustment from 1158 days to 1159 days.

Patentees' letter regarding PTA is **dismissed as failing to provide the required fee under 37 CFR 1.18(e)**.[2]

BACKGROUND AND FACTS

On May 6, 2008 the above-identified application matured into U.S. Patent No. 7,368,527 with a revised patent term adjustment

[1] The patent issued on May 6, 2008,

[2] It should be noted that patentee cannot file a Letter Regarding Patent term Adjustment and request additional time. Patentees seeking additional time must a file a request for reconsideration under 37 CFR 1.705(d) which requires the submission of a petition fee under 37 CFR 1.18(e). The Office will construe a letter of good faith and candor as a petition under 37 CFR 1.705(d) assuming such submission is timely and assuming there is a general authorization to charge the fee. In this particular instance, patentee does not provide any general authorization to charge such fee. A review of the transmittal letter filed with the application only provides authorization to charge fees under 37 CFR 1.16 and 1.17. Accordingly, no fee authorization has been provided.

of 1158 days. On July 2, 2008 patentee requested reconsideration of the Patent Term Adjustment because patentee asserted that the total number of PTA should be 1159 days rather than 1158 days determined by the Office.

Patentee asserts that the time period from December 7, 2005 thru April 3, 2006 is 117 days, rather than the 118 days calculated by the Office.

DISCUSSION

Patentees have failed to submit the required fee pursuant to 37 CFR 1.705(d) as required. However, assuming *arguendo* that applicant had properly paid the fee, the request for reconsideration would similarly been dismissed because the Office properly calculated the reduction.

The relevant regulation, 37 CFR 1.704(c) (10), provides:

> 10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or (ii) Four months;

In this instance, the time period for the reduction pursuant to 37 CFR 1.704(c)(10) started on December 7, 2005, the date that the 37 CFR 1.312 amendment was filed and ended on April 3, 2006, the date that the Office mailed a response to patentee. When counting, both December 7 and April 3 are included in the calculation. The resulting time period is correct at 118 days. Therefore, the patent term adjustment of 1158 days is also correct.

CONCLUSION

The Letter Regarding Patent Term Adjustment is **DISMISSED**.

Telephone inquiries specific to this matter should be directed to Kery Fries, at (571) 272-7757.

Kery A. Fries

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

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HUMAN GENOME SCIENCES INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

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OFFICE OF PETITIONS

In re Patent No. 7,368,527	:	CORRECTED DECISION ON
Rosen, et al.	:	LETTER REGARDING
Issue Date: May 6, 2008	:	PATENT TERM ADJUSTMENT
Application No. 10/105,299	:	CALCULATION
Filed: March 26, 2002	:	
Docket No.: PS950	:	

This is a Corrected decision on the, " LETTER REGARDING PATENT TERM ADJUSTMENT CALCULATION" timely[1] filed on July 2, 2008 requesting that the Office reconsider the patent term adjustment and adjust the patent term adjustment from 1158 days to 1159 days. The correction is to note that the Patent number was wrongly cited. The correct patent number is 7,368,527.

Patentees' letter regarding PTA is **dismissed as failing to provide the required fee under 37 CFR 1.18(e)**.[2]

BACKGROUND AND FACTS

[1] The patent issued on May 6, 2008,

[2] It should be noted that patentee cannot file a Letter Regarding Patent term Adjustment and request additional time. Patentees seeking additional time must a file a request for reconsideration under 37 CFR 1.705(d) which requires the submission of a petition fee under 37 CFR 1.18(e). The Office will construe a letter of good faith and candor as a petition under 37 CFR 1.705(d) assuming such submission is timely and assuming there is a general authorization to charge the fee. In this particular instance, patentee does not provide any general authorization to charge such fee. A review of the transmittal letter filed with the application only provides authorization to charge fees under 37 CFR 1.16 and 1.17. Accordingly, no fee authorization has been provided.

On May 6, 2008 the above-identified application matured into U.S. Patent No. 7,368,527 with a revised patent term adjustment of 1158 days. On July 2, 2008 patentee requested reconsideration of the Patent Term Adjustment because patentee asserted that the total number of PTA should be 1159 days rather than 1158 days determined by the Office.

Patentee asserts that the time period from December 7, 2005 thru April 3, 2006 is 117 days, rather than the 118 days calculated by the Office.

DISCUSSION

Patentees have failed to submit the required fee pursuant to 37 CFR 1.705(d) as required. However, assuming *arguendo* that applicant had properly paid the fee, the request for reconsideration would similarly been dismissed because the Office properly calculated the reduction.

The relevant regulation, 37 CFR 1.704(c) (10), provides:

> 10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or (ii) Four months;

In this instance, the time period for the reduction pursuant to 37 CFR 1.704(c)(10) started on December 7, 2005, the date that the 37 CFR 1.312 amendment was filed and ended on April 3, 2006, the date that the Office mailed a response to patentee. When counting, both December 7 and April 3 are included in the calculation. The resulting time period is correct at 118 days. Therefore, the patent term adjustment of 1158 days is also correct.

CONCLUSION

The Letter Regarding Patent Term Adjustment is **DISMISSED**.

Telephone inquiries specific to this matter should be directed to Kery Fries, at (571) 272-7757.

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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MAY 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Shinichi Hayashi, et al.	:	
Application No. 10/105,306	:	DECISION GRANTING PETITION
Filed: March 26, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 626.1008D	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 22, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 16, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Creasy for

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

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

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OFFICE OF PETITIONS

In re Patent No. 6,782,348
Yukihiro Ushiku
Issue Date: August 24, 2004
Application No. 10/105,381
Filed: March 26, 2002
Atty Docket No. 03180.0298

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

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed May 6, 2004. This is also a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed October 8, 2004.

Then applicants first requested that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred twenty-one (221) days to two hundred forty-two (242) days. Prior to a decision being rendered, the instant application matured into U.S. Patent No. 6,782,348 with a revised patent term adjustment of 110 days. Patentees now request that the patent term adjustment indicated in the patent be corrected from one hundred ten (110) days to two hundred forty-two (242) days. This second request is properly considered pursuant to 37 CFR § 1.705(d).

ON APPLICATION FOR PATENT TERM ADJUSTMENT FILED May 6, 2004

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred forty-two **(242)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 20, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 221 days. On May 6, 2004, applicants timely submitted the instant application for patent term

adjustment[1]. Patentees dispute the reduction of 49 days for applicant delay in responding to the Notice to File Missing Parts of Application mailed April 26, 2002. Patentees state that a response to the Notice was filed on August 23, 2002, and thus, the period of time in excess of three months from the Notice is 28 days. Thus, the reduction under § 1.704(b) should be 28 days, not 49 days.

The record supports a conclusion that the patent is not subject to a terminal disclaimer.

Patentees' argument is well-taken. The reduction of 49 days is incorrect. A review of the application file reveals that applicants' response to the Notice to File Missing Parts of Application mailed April 26, 2002, is of record in the application with a date of receipt by the Office of August 23, 2002. This was outside of the three-month period under 37 CFR 1.704(b), but not by 49 days. Patentees should have been assessed a delay of 28 days, counting the number of days in the period beginning on the day after the date that is three months after the date of mailing of the notice, July 27, 2002, and ending on the date the reply was filed, August 23, 2002.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is (270 - 28) 242 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FILED October 8, 2004

On August 24, 2004, the application matured into U.S. Patent No. 6,782,348, with a revised patent term adjustment of 110 days. On October 8, 2004, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 242 days. Patentees request reconsideration, in light of, the request for reconsideration filed May 6, 2004 having not been decided prior to issuance of the patent. In addition, patentees disputes the reduction of 111 days for processing the application for patent term adjustment filed May 6, 2004.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred four **(204)** days.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond to this decision. No extensions of time will

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[1] PALM records show that the Issue Fee was received on May 6, 2004.

be granted under § 1.136.

Patentees' argument is well-taken. 37 CFR 1.704(e) provides that:

> Submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

A review of the application record reveals that the reduction of 111 days was based on the filing after allowance of a "miscellaneous incoming letter," filed May 6, 2004. Moreover, the record confirms that this letter is the earlier filed "Application for Patent Term Adjustment under § 1.705(b)." Thus, the Office should not have entered a reduction of 111 days.

However, a review of the application history reveals a further basis for reduction of the patent term adjustment. Pursuant to 37 CFR § 1.704(c)(10), the submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, is a failure to engage in reasonable efforts to conclude prosecution. In which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

On April 21, 2004, patentees filed an Information Disclosure Statement (IDS). The record does not support a conclusion that this IDS was expressly requested by the examiner. Nor is the IDS accompanied by a § 1.704(d) statement. Accordingly, the PTA should have been reduced by thirty-eight (38) days, the number of days beginning on the date the IDS was filed, April 21, 2004 and ending on the mailing date of the Office action in response to the IDS, May 28, 2004.

In view thereof, the patent should have issued with a revised patent term adjustment of 204 days (270 - (28 + 38)).

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **TWO HUNDRED FOUR (204)** days.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

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

Enclosure: Copy of updated PAIR screen
Copy of DRAFT Certificate of Correction

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

Mail Date: 04/21/2010

Applicant	: Hendrik B. Meeuwissen	: DECISION ON REQUEST FOR
Patent Number	: 7599986	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/105,393	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1005** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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www.uspto.gov

Hsueh, Chih-Yuan
7F., No. 213 Civic Boulevard Sec. 4
Taipei 105 TW TAIWAN

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OFFICE OF PETITIONS

In re Application of	:	
Chih-Yuan Hsueh	:	
Application No. 10/105,424	:	
Filed: March 26, 2002	:	ON PETITION
Patent No. 6,821,670	:	
Issued: November 23, 2004	:	
For: MOBILE PHONE BATTERY	:	

This is a decision on the Petition Under 37 CFR 1.182 for Replacement Patent Grant, filed August 4, 2005.

The Petition is **granted**.

The Publishing Division is directed to issue a duplicate Letters Patent. Any questions concerning issuance of the duplicate Letters Patent should be directed to Kimberly Terrell at (703) 308-9250.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The patent file is being forwarded to the Files Repository.

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

Derek L. Woods
Attorney
Office of Petitions

cc: Kimberly Terrell, South Tower, 8th Floor, Room C-41 (FAX 703-746-4658)

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P.O. BOX 1450
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Paper No. 3

KILPATRICK STOCKTON LLP
3737 Glenwood Avenue
Suite 400
Raleigh, NC 27612

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NOV 0 3 2003

Technology Center 2100

In re Application of :
Mark O'CONNELL, et al :
Application No. 10/105,492 : DECISION ON REQUEST FOR
Filed: March 25, 2002 : WITHDRAWAL AS ATTORNEY
For: METHOD AND SYSTEM FOR :
MIGRATING DATA WHILE
MAINTAINING ACCESS TO DATA
WITH USE OF THE SAME PATHNAME

This is a decision on the Request To Withdraw from Representation filed October 17, 2003.

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

The request is **GRANTED**.

All future communication from the Office will be 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 U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

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

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BOYLE FREDRICKSON
NEWHOLM STEIN & GRATZ, S.C.
250 E. WISCONSIN AVENUE
SUITE 1030
MILWAUKEE WI 53202

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JUL 24 2006
OFFICE OF PETITIONS

In re Application of :
Harris :
Application No. 10/105,571 : DECISION
Filing Date: 26 March, 2002 :
Attorney Docket No.: (None)/1125.111 :

This is a decision on the petition filed on 21 June, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181, and alternatively seeking revival of the application under 37 C.F.R. §1.137, and alleging unintentional delay.

For the reasons set forth below, the petition considered under 37 C.F.R.§1.181 is **DISMISSED**; and the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

The Revocation/Power of Attorney submitted is acknowledged and entered.

Petitioner apparently was not Counsel of record at the time the application went abandoned and thus cannot make the statement of unintentional delay. To this end, the regulatory statement of unintentional delay by the Applicant, former Counsel or Assignee (with the required certificate under 37 C.F.R. §3.73(b)) will be necessary.

(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. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[1]

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 9 February, 2005, with reply due under a non-extendable deadline on or 9 May, 2005;
- the instant application went abandoned after midnight 9 May, 2005;
- the Office mailed a Notice of Abandonment on 3 August, 2005;
- on 21 June, 2006, Petitioner filed the instant petition requesting "withdrawal of the holding of abandonment by the Examiner," but making absolute no showing whatsoever as set forth in the guidance at MPEP §711.03(c), and further averring the "Applicant's representatives (sic) inadvertent mishandling" of the instant matter as the basis of unintentional delay.

The provisions of 37 C.F.R. §1.181 require that the regulation be invoked within two (2) months of the event complained of (i.e., the abandonment), Petitioner waited more than 13 months after abandonment and 10 months after Notice thereof to seek relief under the regulation.

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

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[1] 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.

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 are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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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

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

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

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

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal

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[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[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.

of a holding of abandonment.[9]

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

* * *

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

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

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

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was

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

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

* * *

And the commentary at MPEP §711.03(c) also provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal

knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation (37 C.F.R. §1.181[10]) requires that relief be sought within two (2) months of the act complained of.

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[10] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Director.

<>

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Director.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

Thus, as of this writing Petitioner appears not to have satisfied and not to be able to satisfy the "showing" or "timeliness" requirements described above.

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

As indicated, above, Petitioner was not Counsel at the time the application went abandoned and is not in a position to make the statement of unintentional delay.

The regulatory statement (i.e., tracking the regulation as is set forth in the petition form) of unintentional delay by the Applicant, former Counsel or Assignee (with the required certificate under 37 C.F.R. §3.73(b)) will be necessary.

As of this writing Petitioner has not satisfied the "showing/statement" requirement of the regulation.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**; and 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:[11]

By mail: Commissioner for Patents[12]
P.O. Box 1450
Alexandria, VA 22313-1450

[11] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[12] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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
www.uspto.gov

JJGJR.: 08-07

Paper No: __

BOYLE FREDRICKSON
NEWHOLM STEIN & GRATZ, S.C.
250 E. WISCONSIN AVENUE
SUITE 1030
MILWAUKEE WI 53202

COPY MAILED

AUG 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Harris	:	
Application No. 10/105,571	:	DECISION
Filing Date: 26 March, 2002	:	
Attorney Docket No.: (None)/1125.111	:	

This is a decision on the petition filed on 16 August, 2006, seeking revival of the application under 37 C.F.R. §1.137, and alleging unintentional delay.

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

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and

[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 9 February, 2005, with reply due under a non-extendable deadline on or 9 May, 2005;

- the instant application went abandoned after midnight 9 May, 2005;
- the Office mailed a Notice of Abandonment on 3 August, 2005;
- on 21 June, 2006, Petitioner filed the original petition requesting "withdrawal of the holding of abandonment by the Examiner," but making absolute no showing whatsoever as set forth in the guidance at MPEP §711.03(c), and further averring the "Applicant's representatives (sic) inadvertent mishandling" of the instant matter as the basis of unintentional delay–and the petitions were dismissed on 24 July, 2006;
- the instant petition with fee and, *inter alia*, reply in the form of fees due and statement/showing of unintentional delay made by an appropriate officer of the assignee and the certificate/statement under 37 C.F.R. §3.73(b) seek to remedy those deficiencies.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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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

(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.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(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).

[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.

(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]))

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner now 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.

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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[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORGAN & FINNEGAN LLP
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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OFFICE OF PETITIONS

In re
Peshkovsky, et al.
Application No. 10/105,604
Filed: March 25, 2002
Attorney Docket No. 1079-4017

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed August 25, 2004.

The $400 fee deficiency submission under 37 CFR 1.28, representing the difference between the small entity and large entity application filing fees is hereby **accepted**.

Deposit Account No. 13-4500 has also been charged $324, representing the deficiency between the small entity and large entity total claims fees, and $176, representing the difference between the small entity and large entity independent claims fees.

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL SCHIFF
GERON CORPORATION
230 CONSTITUTION DR.
MENLO PARK, CA 94025

In re Application of John A. Clark et al. :
Serial No. : 10/105,616 :PETITION DECISION
Filed : March 21, 2002 :
Attorney Ref No. 732/002 :

This letter is in response to the Petition under 37 C.F.R. 1.181, filed on June 30, 2005, to request the review of restriction requirement implied in the Notice of Non-responsive amendment dated June 3, 2005. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the application is a utility application filed 21 March 2002.

This application was filed with claims 1-14, all drawn to a vector for homologous recombination at a locus in a vertebrate cell, comprising a telomerase reverse transcriptase (TERT) encoding region flanked on either side by sequences that are complementary to genomic DNA sequences at the locus, wherein homologous recombination of the vector into the locus causes the TERT encoding region to be expressed in the cell. All above claims were rejected by the examiner in the final rejection mailed on September 7, 2004. Claims 1-3 and 5-14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Machalska et al. (WO 99/21415, IDS) in view of Morrison et al. (WO 01/42421, IDS). Claim 4 was rejected as obvious over Machalska et al., Morrison et al. and further in view of Weissmann et al. (U.S.Patent No. 5,698,763, IDS).

In response to the final rejection, applicants filed an after-final amendment on November 22, 2004 with claims directed to methods for improving the efficiency for cloning a non-human animal by nuclear transfer, whereas all the finally rejected claims were drawn to a vector.

Examiner mailed an Advisory Action on December 10, 2004, denying entry of the amendment arguing that scope of the proposed method claims are not the same as those of finally rejected vector claims and that proposed amendments will raise new issues (e.g., 112, first paragraph) that would require further consideration and/or search to be complete. Examiner also argued that the patentability of the proposed method claims can not be based simply on similar claim languages with those of issued US patents.

In response to the Advisory action, applicants filed a Notice of Appeal on February 4, 2005.

On April 4, 2005, applicants filed a Request for Continued Examination (RCE) requesting that the previously filed claim amendment comprising the method claims 1-10 and new claims 15-16) be entered. Applicants presented no claims directed to the original product claims at this time.

On June 3, 2005, in response to the RCE, Examiner, issued a Notice of Non-responsive amendment arguing that newly submitted claims 1-10 and 15-16 are directed to an invention that is independent or distinct from the invention originally claimed. Examiner argued that the currently pending claims are all directed to a method for improving the efficiency for cloning a non-human animal by nuclear transfer which is not the same subject matter of previously presented and examined claims which are all drawn to a vector composition comprising a telomerase reverse transcriptase (TERT) encoding region flanked on either side by sequences that are complementary to genomic DNA sequences in the donor cell so that homologous recombination of the vector into the DNA causes the TERT encoding region to be expressed in the cell. Examiner noted that these two inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 8O6.05(h)).

Examiner also indicated that the vector composition can be used to generate a genetically different cell, and that it is not necessarily used in a method modified cell or a knockout for improving the efficiency for cloning a non-human animal by nuclear transfer as currently amended. Examiner also brought to the attention of the applicant that where applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP 821.04 and that process claims that depend from or otherwise include all the limitations of the patentable product will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier and that amendments submitted after final rejection are governed by 37 CFR 1 .1 16 and amendments submitted after allowance are governed by 37 CFR 1.312.

Finally Examiner pointed out that since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits and therefore claims 1-10 and 15-16 are withdrawn from consideration as being directed to a non-elected invention (37 CFR 1.142(b) and MPEP 821.03).

On June 30 2005, applicants filed a response including a claim amendment comprising new claims 17-24 drawn to the vector and a host cell comprising said vector. Applicants also filed this instant petition on June 30, 2005 requesting the review of restriction implied in the Notice of Non-responsive amendment.

DISCUSSION

The application, file history and petition under 37 C.F.R. 1.144, to request review of the restriction requirement has been considered.

Applicant's argument has been considered in full. Prior to the discussion of the merit of the petition, it is noted that applicants received the Notice of Non-responsive amendment and the restriction only after the filing of claim amendment wherein all claims were drawn to the methods. It is only the amendment filed on June 30, 2005 that comprises few claims directed to the originally claimed product and a cell comprising said product (vector).

This decision is in response to the Petition under 37 C.F.R. 1.144, filed on April 15, 2005, to request the reconsideration and withdrawal of the restriction requirement.

Applicants submit that the Amendment of April 4, 2005, was fully responsive to the previous Office Action, and that the Notice of Non-compliant Amendment was issued in error because a Requirement for Restriction was not previously made in this application, and the Examiner has not explained why the claims presented previously and the claims as subsequently amended cannot be examined in the same application.

The argument that the Notice of Non-compliant Amendment was issued in error because a Requirement for Restriction was not previously made in this application is not persuasive. This is because, according to MPEP 819, the Office generally does not permit shift.

> MPEP 819 Office Generally Does Not Permit Shift
> The general policy of the Office is not to permit the applicant to shift to claiming another invention after an election is once made and action given on the elected subject matter. Note that the applicant cannot, as a matter of right, file a request for continued examination (RCE) to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined (i.e., applicant cannot switch inventions by way of an RCE as a matter of right). When claims are presented which the examiner holds are drawn to an invention other than the one elected, he or she should treat the claims as outlined in MPEP § 821.03.
> Where the inventions are distinct and of such a nature that the Office compels restriction, an election is not waived even though the examiner gives action upon the patentability of the claims to the nonelected invention. *Ex parte Loewenbach*, 1904 C.D. 170, 110 O.G. 857 (Comm'r Pat. 1904) and *In re Waugh*, 135 F.2d 627, 57 USPQ 371

(CCPA 1943).

Where a continued prosecution application (CPA) filed under 37 CFR 1.53(d), is a continuation of its parent application and not a divisional, or where a File Wrapper Continuation (FWC) filed under former 37 CFR 1.62, is a continuation of its parent application and not a divisional or C-I-P, an express election made in the prior (parent) application in reply to a restriction requirement carries over to the CPA or FWC application unless otherwise indicated by applicant. In no other type of continuing application may an election carry over from the prior application.

Where there is no indication in the CPA or FWC application that a change in election is desired, the examiner's first action should include a repetition of the restriction requirement made in the prior application to the extent it is still applicable in the CPA or FWC application and a statement that prosecution is being continued on the invention elected and prosecuted by applicant in the prior application. Examples of what is meant by the phrase "otherwise indicated by applicant" would be where the CPA or FWC is filed as (A) a divisional or (B) a continuation and includes an amendment filed prior to first action in the CPA or FWC adding claims to an invention not previously elected. In each of these examples the examiner should make a new restriction requirement in the first action.

Even though there was no restriction of claims initially, the claims examined is considered by the Office as "elected claims". Applicants were free to include the method claims during the initial presentation which would have been restricted by the examiner. Therefore, applicant's argument that because a Restriction Requirement was not made initially in the application the issue of Notice of Non-responsive amendment was in error is not persuasive. As indicated in the MPEP 819, applicant cannot, as a matter of right, file a request for continued examination (RCE) to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined (i.e., applicant cannot switch inventions by way of an RCE as a matter of right).

Next, applicants petition against the imputed restriction and question whether or not a)the vector product, and b) the use of vector for nuclear transfer are patentably distinct, and whether they can be examined in the same application without imposing undue burden on the Examiner, since the Examiner has already searched the prior art with a view to determine patentability of the product. Applicants quote MPEP 803 arguing that it bars the Examiner from imposing a Restriction Requirement if the search and examination of both claim groups together can be made without serious burden.

In the alternative, applicants also petition the Office to permit a change from the product to process claims in accordance with MPEP § 820, since the Examiner has allegedly identified a prior art product but not a prior art process or that the Office permit a shift from product to process claims in accordance with MPEP § 819.01, because in view of the references cited the shift to process claims will simplify the issues and advance prosecution of the application.

With respect to the question whether or not a)the vector product, and b) the use of vector for nuclear transfer are patentably distinct, and whether they can be examined in the same

application without imposing undue burden on the Examiner, since the Examiner has already searched the prior art with a view to determine patentability of the product, applicants have not provided any compelling argument supporting their view that the product and process are not distinct. As already indicated by the Examiner, these two inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP 8O6.05(h)). In the instant case, the vector composition can be used to generate a genetically modified cell or a knockout cell, and that it is not necessarily used in a method for improving the efficiency for cloning a non-human animal by nuclear transfer as currently amended. Therefore it is settled that the two inventions are distinct irrespective of the search burden.

With respect to the alternative request by the applicants to process claims in accordance with MPEP 820 or MPEP 819, after considering the prosecution history of the instant application, the applicant's request has been considered favorably.

DECISION

For these reasons, the petition under 37 C.F.R. 1.181, is **GRANTED-IN-PART**. As discussed above, the request for a change in examination from product claims to process claims (amended claims 1-10, 15-16) is **GRANTED** and the request to withdraw the restriction requirement is **DENIED**.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner to take appropriate action as a result of this petition decision and to consider the amendments and arguments filed by applicants on 4/15/2005.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-273-8300.

Jasemine C. Chambers
Director, Technology Center 1600

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P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN HENDERSON FARABOW GARRETT & DUNNER
LLP
901 NEW YORK AVENUE NW
WASHINGTON DC 20001-4413

COPY MAILED

JUL 31 2007

OFFICE OF PETITIONS

In re Application	:	
Clark, et al.	:	
Application No. 10/105,616	:	DECISION ON APPLICATION
Filed: March 21, 2002	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 9960.0004-00	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT --PRE-GRANT", filed March 20, 2007. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eighty-eight (88) days to one hundred forty-seven (147) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one hundred forty-seven (147) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 22, 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 eighty-eight (88) days. On March 20, 2007, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one hundred forty-seven (147) days.

Applicants assert entitlement to a patent term adjustment of one hundred forty-seven (147) days on the basis that the PTO improperly assessed Applicants a delay of one hundred eighteen (118) days for responding to a September 7, 2004 final Office action by filing an RCE on April 4, 2005. Applicants assert that they filed a Notice of Appeal on February 4, 2005.

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

The Office initially determined a patent term adjustment of eighty-eight (88) days based on an adjustment for PTO delay of three hundred six (306) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delays of fourteen (14) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. 1.704(c)(8), and one hundred eighteen (118) days and eighty-six (86) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b). The adjustment of one hundred eighteen (118) days is at issue.

The adjustment of one hundred eighteen (118) days has been found to be incorrect. A review of the file reveals the presence of a Notice of Appeal filed on February 4, 2005, filed in response to a final Office action mailed on September 7, 2004. Accordingly, only fifty-nine (59) days of applicant delay should have been assessed for responding to the September 7, 2004 Office action, not one hundred eighteen (118) days that were assessed for applicants' filing of the RCE on April 4, 2005.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one hundred forty-seven (147) days** (306 days of PTO delay and 147 (14+59+86) days of applicant delay).

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

Receipt of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

PTA Calculations for Application: 10/105616			
Application Filing Date:	03/21/2002	PTO Delay (PTO):	306
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	218
Post-Issue Petitions:	0	Total PTA (days):	147
PTO Delay Adjustment:	59		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
81	07/19/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		59	
80	07/19/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	118		
69	12/22/2006	MAIL NOTICE OF ALLOWANCE			
68	12/22/2006	MAIL EXAMINER'S AMENDMENT			
67	12/21/2006	ISSUE REVISION COMPLETED			
66	12/21/2006	EXAMINER'S AMENDMENT COMMUNICATION			
65	12/21/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	12/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
63	12/21/2006	NOTICE OF ALLOWABILITY			
62	10/20/2006	DATE FORWARDED TO EXAMINER			
61	10/10/2006	RESPONSE AFTER NON-FINAL ACTION			
60	07/10/2006	MAIL NON-FINAL REJECTION			
59	06/27/2006	NON-FINAL REJECTION			
58	05/11/2006	CORRESPONDENCE ADDRESS CHANGE			
57	05/11/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
56	04/18/2006	DATE FORWARDED TO EXAMINER			
55	04/07/2006	RESPONSE AFTER NON-FINAL ACTION		86	53
54	04/07/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
53	10/11/2005	MAIL NON-FINAL REJECTION			
52	10/03/2005	NON-FINAL REJECTION			
51	09/16/2005	PETITION DECISION - GRANTED			
50	06/30/2005	PETITION ENTERED			
49	09/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
48	07/07/2005	DATE FORWARDED TO EXAMINER			

47	06/30/2005	RESPONSE AFTER NON-FINAL ACTION			
46	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
45	06/03/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT			
44	06/01/2005	NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT.			
43	04/11/2005	DATE FORWARDED TO EXAMINER			
42	11/22/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
41	04/11/2005	DATE FORWARDED TO EXAMINER			
40	04/04/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		118	29
39	04/11/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
38	01/18/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
37	01/06/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
36	12/10/2004	MAIL ADVISORY ACTION (PTOL - 303)			
35	12/09/2004	ADVISORY ACTION (PTOL-303)			
34	12/03/2004	DATE FORWARDED TO EXAMINER			
33	11/22/2004	SUPPLEMENTAL RESPONSE			
32	12/03/2004	DATE FORWARDED TO EXAMINER			
31	11/19/2004	AMENDMENT AFTER FINAL REJECTION			
30	11/16/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
29	09/07/2004	MAIL FINAL REJECTION (PTOL - 326)			
28	09/02/2004	FINAL REJECTION			
23	07/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		14	21
22	06/29/2004	DATE FORWARDED TO EXAMINER			
21	06/22/2004	RESPONSE AFTER NON-FINAL ACTION			
20	06/22/2004	WORKFLOW INCOMING AMENDMENT IFW			
19	03/22/2004	MAIL NON-FINAL REJECTION	306		-1
18	03/19/2004	NON-FINAL REJECTION			
17	01/15/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	01/15/2004	REFERENCE CAPTURE ON IDS			
15	01/31/2003	PRELIMINARY AMENDMENT			
14	12/13/2002	INFORMATION DISCLOSURE STATEMENT (IDS)			

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In re Patent No. 6986853
Issue Date: January 17,2006
Application No. 10105622
Filed: March 26,2002
Attorney Docket No. 8125.004.US

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

This is a decision on the electronic petition, filed February 4,2010 ,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 4,2010 . 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)
6,986,853	2006-01-17	10/105,622	2002-03-26	8125.004.US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/James Remenick/	Date (YYYY-MM-DD)	2010-02-04
Name	James Remenick	Registration Number	36902

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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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

In re Application of
Ben JANS :

Application No. 10/105,671 : DECISION ON REQUEST TO
Filed: March 25, 2002 : WITHDRAW FROM RECORD
For: **DESK HOUSING UPGRADABLE AND EXPANDABLE COMPUTER, NETWORK AND MULTIMEDIA SYSTEMS** :

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on September 27, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents of record are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

CC: Ben Jans
Ben Jans Electronics NV/SA
Mechelsesteenweg
195 2018
Antwerpen, BELGIUM

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 21

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

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JUL 12 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Darrel R. Galloway et al :
Application No. 10/105,694 :
Filed: March 25, 2002 :
Attorney Docket No. 22727/04116 :

This is a decision on the petition, filed July 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1645 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper 23

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

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SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of
Galloway et al.
Application No. 10/105,694
Filed: March 25, 2002
Attorney Docket No. 22727/04116

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed July 1, 2004 to revive the above-identified application.

This above-identified application became abandoned for failure to file a proper response to a final Office Action which was mailed on May 12, 2003. The 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). The finality of the Final Office action was withdrawn November 21, 2003. However the maximum period (with an accompanying three month extension of time and fee) for reply and withdrawal of the finality of the Office Action was November 12, 2003. Accordingly, this application became abandoned on August 13, 2003. 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 gap in prosecution is being closed by this decision.

Pursuant to petitioner's request deposit account 03-0172 is being charged the $1330.00 petition to revive fee.

This application is being forwarded to Technology Center 1600 for further processing of the RCE.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAY 25 2005

OFFICE OF PETITIONS

CALFEE HALTER & GRISWOLD
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

In re Application of :
Darrel R. Galloway et al :
Application No. 10/105,694 : ON PETITION
Filed: March 25, 2002 :
Attorney Docket No. 22727/04116 :

This is a decision on the petition, filed May 24, 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 13, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1645 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

CALFEE HALTER & GRISWOLD
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

COPY MAILED

MAY 25 2005

OFFICE OF PETITIONS

In re Application of :
Darrel R. Galloway et al :
Application No. 10/105,695 : ON PETITION
Filed: March 25, 2002 :
Attorney Docket No. 22727/04115 :

This is a decision on the petition, filed May 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 2, 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 1645 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).

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Alexandria, VA 22313-1450
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Paper No. 23

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
1400 MCDONALD INVESTMENT BLDG.
CLEVELAND OH 44114

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JUL 12 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Darrel R. Galloway et al :
Application No. 10/105,695 :
Filed: March 25, 2002 :
Attorney Docket No. 22727/04115 :

This is a decision on the petition, filed July 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1645 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/105,700

Paper No.: 9

DATE : 2-22-06

TO SPE OF : ART UNIT 3641

SUBJECT : Request for Certificate of Correction on Patent No.: 6694660

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please 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:

All are approved except for claim 2, line 6; claim 10, lines 6 & 7 and claim 17, lines 12 & 13 due to 112 2nd issues

MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER

SPE

3641

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
DIW Apr-07

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

APR 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Hirano et al.	:	
Application No. 10/105,711	:	DECISION ON PETITION
Filed: 21 March, 2002	:	
Atty Docket No. 16869K-047900US	:	

This is a decision on the petition filed on 18 January, 2007, under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 20 July, 2006, for failure to timely reply to the final Office action mailed 19 April, 2006, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. An amendment after final rejection was filed on 24 July, 2006. On 3

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

August, 2006, however, an Advisory Action was mailed, stating that the amendment failed to place the application in condition for allowance. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has filed a Request for Continued Examination (RCE) and has requested that the previously submitted amendment be considered as the submission required under 37 CFR 1.114.

This application is being referred to Technology Center 2185 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GRAY CARY WARE & FREIDENRICH LLP
2000 UNIVERSITY AVENUE
E PALO ALTO, CA 94303-2248

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AUG 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Sohrab Kianian et al :
Application No. 10/105,741 : DECISION GRANTING PETITION
Filed: March 20, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2102397-992110 :

This is a decision on the petition, filed August 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 May 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) 305-8680.

This matter is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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CENTRAL FAX CENTER
AUG 26 2004

RECEIVED
SEP 19 2003
I.P. LAW DEPT.

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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. 4

Schlumberger Technology Corporation
14910 Airline Road
P.O. Box 1590
Rosharon TX 77583-1590

COPY MAILED
SEP 15 2003
OFFICE OF PETITIONS

In re Application of :
Michael Thomas Deaton :
Application No. 10/105,762 : DECISION AFFORDING STATUS
Filed: March 25, 2002 : UNDER 37 C.F.R. §1.47(b)
Attorney Docket No. 68.0172 :
Title: VALVE CLOSING DEVICE :

This is in response to the petition under 37 CFR §1.47(b)[1], filed March 25, 2002, with the instant application.

The Office regrets the delay in issuing this decision.

The petition under 37 C.F.R. §1.47(b) is **GRANTED**.

The above-identified application was filed on March 25, 2002. Petitioner included the instant petition (and fee), a copy of the non-signing inventor's employee agreement, and a copy of a letter sent to the non-signing inventor, coupled with a Federal Express tracking result which confirms its receipt.

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.

A copy of the application, the assignment form, and the declaration was sent to the non-signing inventor on June 18, 2001. The non-signing inventor failed to respond.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries regarding *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

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 PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
Cermenati et al. : DECISION GRANTING PETITION
Application No. 10/105,785 :
Filed: March 25, 2002 :
Attorney Docket No. CM2520 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2005 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on November 27, 2004, for failure to pay the issue fee and the publication fee as required by the Notice of Allowance and Fee(s) Due, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on June 13, 2005.

Petitioners authorized the Office to charge their Deposit Account in the amount of $1,670.00 for the issue fee and the publication fee. The current amounts for the issue fee and the publication fee are $1,400.00 and $300.00, respectively. Therefore, the Office will charge petitioners' Deposit Account for the difference of $30.00.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (703) 305-8497.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

OIPE
NOV 2 4 2004
PATENT & TRADEMARK OFFICE

PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT and CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/105,813
Filing Date	March 21, 2002
First Named Inventor	Joe FLEMING
Art Unit	1772
Examiner Name	A. Thomas
Attorney Docket Number	004186.00002

Approved
JMStone 12/20/05
Jacqueline M. Stone, Director
Technology Center 1700

To: **Commissioner for Patents**
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified application, and

☐ all the attorneys/agents of record.

☐ the attorneys/agents (with registrations numbers) listed on the attached paper(s), or

☒ the attorneys/agents associated with Customer Number 22907

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Termination of Attorney/Client Relationship

1. ☐ The correspondence address is NOT affected by this withdrawal.

2. ☒ Change the correspondence address and direct all future correspondence to:

☐ Customer Number

OR

☒ Firm *or* Individual Name	Laurence L. Howell, Corp. V/P Director of Operations Fleming Products, Inc.				
Address	PO Box 89546				
Address					
City	Tucson	State	AZ	ZIP	85752-9546
Country	US				
Telephone	520.579.0330	Fax			

Name	Thomas L. Peterson		
Signature	Thomas L. Peterson	Registration No.	30,969
Date	November 24, 2004	Telephone No.	202-824-3000

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DEC 0 1 2003

TECHNOLOGY CENTER 2100

Paper No. 3

George T. Marcou
KILPATRICK STOCKTON LLP
3737 Glenwood Avenue
Suite 400
Raleigh, NC 27612

In re Application of:
Mark O'Connell, et al.
Application No. 10/105,821
Filed: March 25, 2002
For: METHOD AND SYSTEM FOR MIGRATING DATA

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed October 17, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed October 17, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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 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

UNITED STATES 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

ERIC B. MEYERTONS
CONLEY ROSE & TAYON P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Jeffery W. Henry et al :
Application No. 10/105,865 : ON PETITION
Filed: March 25, 2002 :
Attorney Docket No. 5049-13102 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed April 17, 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 18, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 21, 2008

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/105884 Patent No.: 7209879 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: The changes submitted by the applicant are typographical in nature and fix errors that appear to be the fault of the USPTO regarding equations from the original specification. A few errors were made in amendments filed by the applicant but do not change the scope of the claims nor the invention as originally disclosed.

SPE

2626
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402-1498

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MAY 0 6 2009

OFFICE OF PETITIONS

In re Application of :
JEANNERET, Katja et al. :
Application No. 10/105,887 : DECISION ON PETITION
Filed: March 25, 2002 : TO WITHDRAW
Attorney Docket No. **14315** : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 01, 2008.

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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that all of the acts noted in the above-identified certifications have been performed.

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 Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **GENERAL ELECTRIC COMPANY**
GE GLOBAL PATENT OPERATION
PO BOX 861
2 CORPORATE DRIVE, SUITE 648
SHELTON, CT 06484

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402-1498

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
JEANNERET, Katja et al. :
Application No. 10/105,887 : DECISION ON PETITION
Filed: March 25, 2002 : TO WITHDRAW
Attorney Docket No. **14315** : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 11, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Min S. Xu on behalf of all attorneys of record who are associated with customer No. 25763. 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 address 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.

The application became abandoned for failure to timely reply to the office action mailed August 21, 2008.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **KATJA JEANNERET**
583 SUMMERFIELD DRIVE
CHANHASSEN, MINNESOTA 55317

cc: **GENERAL ELECTRIC COMPANY**
GE GLOBAL PATENT OPERATION
PO BOX 861
2 CORPORATE DRIVE, SUITE 648
SHELTON, CT 06484

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JJGJR.: 07-04

Paper No: __

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OFFICE OF PETITIONS

ACUSHNET COMPANY
333 BRIDGE STREET
P. O. BOX 965
FAIRHAVEN MA 02719

In re Application of
Hogge, et al.
Application No. 10/105,906
Filing Date: 25 March, 2002
Attorney Docket No. B01-69

DECISION ON PETITION

This is a decision on the renewed petition filed on 2 April, 2004, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 22 October, 2003, and due under a non-extendable deadline on or before 22 January, 2004;
- Petitioner's 17 November, 2003, authorization to charge the Deposit Account could not be accommodated due to insufficient funds in the account;
- the instant application went abandoned by operation of law after midnight 22 January, 2004;
- Notice of Abandonment was mailed on 25 March, 2004;

- the instant petition (with fee) was accompanied by the reply (Issue and Publication Fees), and, while the instant petition failed to state that "the entire delay from the due date of the reply to the filing of a grantable petition was unintentional," the petition is read to so state. (See: the elements of 37 C.F.R. §1.137(b).)

However, if this interpretation is in error, Petitioner must notify the Office immediately in compliance with his duty of candor and good faith to the Office.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not

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[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

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]))

Petitioner has satisfied the requirements of the regulation (a terminal disclaimer is not required in this matter).

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**, and the petition fee, Issue Fee and Publication fee, not previously charged are now charged as authorized to Deposit Account 50–2309.

The instant application is release to Publications Branch to be processed into a patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Koji HIRATA et al. :
Application No. 10/105,916 : ON PETITION
Filed: March 20, 2002 :
Attorney Docket No. 16869S-047200US :

This is a decision on the petition under 37 CFR 1.181, filed April 30, 2004, requesting withdrawal of the Notice of Abandonment mailed January 15, 2004.

The petition is **GRANTED**.

Petitioner asserts the Notice of Abandonment mailed January 15, 2004 be withdrawn as petitioner never received the Notice to File Missing Parts of Nonprovisional Application mailed April 29, 2002. On December 14, 2004 the Office of Initial Patent Examination mailed a Withdrawal of Previously Sent Notice and a Notice to File Missing Parts of Nonprovisional Application. This decision ratifies the actions taken by the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SAWYER LAW GROUP LLP
PO BOX 51418
PALO ALTO CA 94303

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APR 16 2008

In re Application of :
CHALLENER, et al. :
Application No. 10/105,917 : DECISION ON PETITION
Filed: March 25, 2002 :
Attorney Docket No. **RPS920020004US1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 7, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 8, 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). Accordingly, the date of abandonment of this application is April 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Kelvin M. Vivian 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 in accordance with 37 CFR 1.34(a).

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 2137 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

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Novartis Vaccines and Diagnostics, Inc.
Corporate Intellectual Property
P.O. BOX 8097
EMERYVILLE, CA 94662-8097

Mail Date: 07/14/2010

Applicant	: David W. Morris	: DECISION ON REQUEST FOR
Patent Number	: 7645441	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/105,948	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1937** 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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MYRIAD GENETICS INC.
LEGAL DEPARTMENT
320 WAKARA WAY
SALT LAKE CITY UT 84108

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OFFICE OF PETITIONS

In re Application of
Cimbora et al.
Application No. 10/105,959
Filed: March 21, 2002
Attorney Docket No. 1802.21
For: PROTEIN-PROTEIN INTERACTIONS

DECISION ON PETITION
UNDER 37 CFR 1.182

This is a decision on the petition under 37 CFR 1.182 filed on July 22, 2003, requesting that: (1) Patent Application Publication No. US 2003/0068630A1 published on April 10, 2003, of the above-identified application be withdrawn from the USPTO electronic database and website, or (2) alternatively, the processing fee for the request to convert filed on August 13, 2002 be refunded. The request for a refund of the processing fee is also being treated as a request to withdraw the request to convert the above-identified application to a provisional application.

The petition under 37 CFR 1.182 filed on July 22, 2003 is granted to the extent that the processing fee will be refunded and the request to convert is withdrawn.

Petitioners assert that the request to convert and several other papers were filed in the Office on August 13, 2002. In support, the petitioners submitted the following with the petition under 37 CFR 1.182: (1) a copy of the request to convert, (2) a copy of the cover letter, (3) a copy of the assignment form, (4) a copy of the revocation of power of attorney and new power of attorney which includes a change of correspondence address, and (5) a copy of the post card receipt with a date of August 13, 2002 stamped by the Office of Initial Patent Examination (OIPE) itemized with the above mentioned items. A duplicate copy of the papers filed on August 13, 2002 was also submitted to the Office via facsimile on June 2, 2003.

Petitioners assert that the request to convert filed on August 13, 2002 should have prevented the publication of the above-identified application. Petitioners argue that the since the request was filed more than eight months prior to the publication of the above-identified application, the Office had adequate time to act upon the request and thus prevent publication.

A review of the contents of the file shows that the original request to convert and other papers filed on August 13, 2002 are not in the file. In view of the stamped post card receipt, the duplicate copy of papers submitted by facsimile on June 2, 2003 will be accepted as if they were filed on August 13, 2002. The assignment document has been recorded in the Office. The

revocation of power of attorney and new power of attorney by assignee have been recognized. The correspondence address associated with the Customer No. 26,698 will be used for all communications.

The American Inventors Protection Act of 1999 (AIPA) was enacted into law on November 29, 1999. See Pub. L. 106-113, 113 Stat. 1501, 1501A-552 through 1501A-591 (1999). The AIPA contained a number of changes to title 35, including provisions for the publication of pending applications for patent, with certain exceptions, promptly after the expiration of a period of eighteen-months from the earliest filing date for which a benefit is sought under title 35 ("eighteen-month publication"). The eighteen-month publication provisions of the AIPA became effective on November 29, 2000, and apply to all applications filed on or after November 29, 2000. See Pub. L. 106-113, 113 Stat. At 1501A-566 through 1501A-567. The Office implemented the eighteen-month publication provisions of the AIPA in a final rule published in September of 2000. See Changes to Implement Eighteen-Month Publication of Patent Applications, 65 Fed. Reg. 57023 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office 63 (Oct. 10, 2000) (final rule).

In implementing the eighteen-month publication provisions of the AIPA, the Office added 37 CFR 1.138(c) for the specific purpose of providing a petition for express abandonment to avoid publication for those applicants seeking to expressly abandon an application to avoid its publication under the eighteen-month publication provisions of the AIPA. See Changes to Implement Eighteen-Month Publication of Patent Applications, 65 Fed. Reg. at 57034, 1239 Off. Gaz. Pat. Office at 73. The Office also indicated that:

> Unless an applicant has received a notice of abandonment, an applicant who wants to abandon the application to avoid publication must file a petition under [37 CFR] 1.138(c) to expressly abandon the application and avoid publication. An applicant permitting an application to become abandoned (for failure to reply to an Office action) to avoid publication by passively waiting for the Office to recognize that the application has become abandoned must bear the risk that the Office will not recognize that the application has become abandoned and change the status of the application in the PALM system in sufficient time to avoid publication.

See Changes to Implement Eighteen-Month Publication of Patent Applications, 65 Fed Reg. at 57035, 1239 Off. Gaz. Pat. Office at 73.

37 CFR 1.138(c) provides, in part, that "[a]n applicant seeking to abandon an application to avoid publication of the application (see [37 CFR] 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 [37 CFR] 1.17(h) in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process." The final rule also indicates that petitions under 37 CFR 1.138 should be addressed to Mail Stop PGPUB-ABN to increase the chances of such petition being received by the appropriate officials in sufficient time to avoid publication of an application. See Changes to Implement Eighteen-Month Publication of Patent Applications, 65 Fed. Reg. at 57045, 1239 Off. Gaz. Pat. Office at 82 (response to comment 44).

The above-identified application was filed under 35 U.S.C. § 111(a) and 37 CFR 1.53(b) on March 21, 2002. The above-identified application claims priority to U.S. provisional application No. 60/278428, filed on March 26, 2001. The Office mailed a filing receipt on June 27, 2002 notifying the petitioners that the projected publication date of above-identified application was October 3, 2002. The above-identified application was published on April 10, 2003 as Patent Application Publication US 2003/0068630A1.

Instead of filing a petition for express abandonment to avoid publication under 37 CFR 1.138(c) and the petition fee of $130, petitioners filed a request to convert the above-identified application to a provisional and the processing fee of $50 on August 13, 2002. A nonprovisional application is not converted to a provisional application until the appropriate deciding official recognizes the request to convert and converts the application to a provisional application. In order to prevent the publication of a nonprovisional application, the nonprovisional application must be converted in sufficient time prior to the Office beginning the publication process by exporting the data to the publication contractor (*e.g.*, normally nine weeks before the projected publication date). Even though the Office is treating the duplicate copy of the request to convert submitted via facsimile on June 6, 2003 as if it was filed on August 13, 2002 (seven weeks before October 3, 2002, the projected publication date), the deciding official could not have recognized the request to convert and processed the conversion prior to the exportation of the data for the publication. The above-identified application was not converted to a provisional application at the time that the Office began the publication process.

Since the above-identified application was a nonprovisional application on the date it was published, the above-identified application was properly published under 35 U.S.C. 122(b) on April 10, 2003 as Patent Application Publication US 2003/0068630A1. There is no basis or authority for expunging the publication of an application that has been properly published as required by 35 U.S.C. 122(b) from the Office's database and website.

Petitioners alternatively request a refund of the processing fee of $50.00 if the Office cannot withdraw the publication from its database. The request for refund is also being treated as a request to withdraw the request to convert. Since the instant petition was filed prior to the Office recognizing the request to convert, the request to convert is hereby withdrawn.

Since the request to convert the above-identified application to a provisional application has been withdrawn, the processing fee of $50.00 will be refunded to Deposit Account No. 50-1627.

The petition fee of $130.00 as set forth in 37 CFR 1.17(h) for filing the petition under 37 CFR 1.182 will be charged to Deposit Account No. 50-1627 as authorized by the petitioners.

After the mailing of this decision, the application will be returned to the Technology Center 1600 for further processing.

Any inquiries concerning 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 Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/105,966	03/26/2002	Ryoei Nozawa	Q67142	4846

7590 04/05/2005

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

EXAMINER	
BIDWELL, JAMES R	

ART UNIT	PAPER NUMBER
3651	

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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In re Patent No. 6,823,984
Issue Date: 11/30/04
Appl No.: 10/105,966
Filed: March 26, 2002
For: Nozawa et al.

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition under 37 CFR 1.48, filed 11/02/2004. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Eileen Lillis
Supervisory Patent Examiner
Art Unit 3651
Patent Examining Group 3600

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

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Paper No. 7

VIERRA MAGEN MARCUS HARMON & DeNIRO
685 MARKET STREET, SUITE 540
SAN FRANCISCO, CA 94105-4206

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OFFICE OF PETITIONS

In re Application of :
Dave Hass et al :
Application No. 10/105,972 : NOTICE
Filed: March 25, 2002 :
Attorney Docket No. JNP-0275 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

The file does not indicate a change of address has been submitted, although the address given on the notification 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 notice is being mailed to the address given on the notification; however, the Office will mail all future correspondence solely to the address of record.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This application will be forwarded to Technology Center AU 2185.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JUNIPER NETWORKS INC.
1194 N. MATHILDA AVENUE
SUNNYVALE, CA 94089

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Paper No. 8

ALLEN M. LO
JUNIPER NETWORKS INC
1194 N. MATHILDA AVENUE
SUNNYVALE, CA 94089

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OFFICE OF PETITIONS

In re Application of	:	
David Hass et al	:	
Application No. 10/105,972	:	DECISION GRANTING STATUS
Filed: March 25, 2002	:	UNDER 37 CFR 1.47(A)
For: RING-BASED MEMORY REQUESTS IN A SHARED MEMORY MULTI-PROCESSOR	:	

This is in response to the petition under 37 CFR 1.47(a), filed October 21, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventors have 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 inventors 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 Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 2185 for examination in due course.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 9

ALLEN M. LO
JUNIPER NETWORKS, INC.
1194 N. MATHILDA AVE.
SUNNYVALE, CA 94089

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OFFICE OF PETITIONS

In re Application of	:	
Frederick Gruner et al	:	
Application No. 10/105,973	:	DECISION GRANTING
Filed: March 25, 2002	:	STATUS UNDER 37 CFR 1.47(a)
For: COPROCESSOR INCLUDING A MEDIA ACCESS CONTROLLER	:	

This is in response to the petition under 37 CFR 1.47(a), filed October 24, 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 2100.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

RAMESH PANWAR
3544 ROCCA COURT
PLEASANTON, CA 94588

In re Application of
Frederick Gruner; Robert Hathaway; Ramesh Panwar; Elango Ganesan; Nazar Zaidi
Application No. 10/105,973
Filed: March 25, 2002
For: COPROCESSOR INCLUDING A MEDIA ACCESS CONTROLLER

Dear Mr. Panwar:

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:

Allen M. Lo
Juniper Networks, Inc.
1194 N. Mathilda Ave.
Sunnyvale, CA 94086

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFIC
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Paper No. 10

ALLEN M. LO
JUNIPER NETWORKS, INC.
1194 N. MATHILDA AVE.
SUNNYVALE, CA 94089

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OFFICE OF PETITIONS

In re Application	:	
Frederick Gruner et al	:	
Application No. 10/105,973	:	LETTER
Filed: March 25, 2002	:	
Attorney Docket No. JNP-0253	:	

This is in response to the paper filed December 20, 2002 under 37 CFR 1.28(b) requesting that status as a Small Entity be removed.

In accordance with the December 20, 2002 request, status as a Small Entity has been removed.

This file is being forwarded to Technology Center 2100.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 306-5684

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www.uspto.gov

Paper No. 3

MAILED

NOV 0 3 2003

Technology Center 2100

KILPATRICK STOCKTON LLP
3737 Glenwood Avenue, Suie 400
Raleigh, NC 27612

In re Application of
Mark O'CONNELL, et al
Application No. 10/105,976
Filed: March 25, 2002
For: METHOD AND SYSTEM FOR MIGRATING DATA WHILE MAINTAINING HARD LINKS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Reprsentation filed October 17, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communication from the Office will be 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 U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
(703) 305-9750

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. 7

ALLEN M. LO
JUNIPER NETWORKS, INC.
1194 N. MATHILDA AVE.
SUNNYVALE, CA 94089

COPY MAILED

FEB 26 2003

OFFICE OF PETITIONS

In re Application of	:
Frederick Gruner et al	:
Application No. 10/105,979	: DECISION GRANTING
Filed: March 25, 2002	:STATUS UNDER 37 CFR 1.47(a)
For: APPLICATION PROCESSING	:
EMPLOYING A COPROCESSOR	:

This is in response to the petition under 37 CFR 1.47(a), filed October 23, 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 2100.

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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Paper No. 8

ALLEN M. LO
JUNIPER NETWORKS, INC.
1194 N. MATHILDA AVE.
SUNNYVALE, CA 94089

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FEB 26 2003

OFFICE OF PETITIONS

In re Application	:
Frederick Gruner et al	:
Application No. 10/105,979	: LETTER
Filed: March 25, 2002	:
Attorney Docket No. JNP-0262	:

This is in response to the paper filed December 20, 2002 under 37 CFR 1.28(b) requesting that status as a Small Entity be removed.

In accordance with the December 20, 2002 request, status as a Small Entity has been removed.

This file is being forwarded to Technology Center 2100.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 306-5684

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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FEB 26 2003

OFFICE OF PETITIONS

RAMESH PANWAR
3544 ROCCA COURT
PLEASANTON, CA 94588

In re Application of
Frederick Gruner; Robert Hathaway; Ramesh Panwar; Elango Ganesan; Nazar Zaidi
Application No. 10/105,979
Filed: March 25, 2002
For: APPLICATION PROCESSING EMPLOYING A COPROCESSOR

Dear Mr. Panwar:

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:

Allen M. Lo
Juniper Networks, Inc.
1194 N. Mathilda Ave.
Sunnyvale, CA 94089

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

Docket Administrator (Room 3J-219)
Lucent Technologies Inc.
101 Crawfords Corner Road
Holmdel NJ 07733-3030

COPY MAILED

JUL 16 2002

OFFICE OF PETITIONS

In re Application of:
Giustina, *et al.*
Application No. 10/105,983
Filed: June 18, 2002
Attorney Docket No. 9-3-1

DECISION ON
PETITION

This is a decision on the June 18, 2002 petition requesting that the above-identified application be accorded a filing date of same.

The petition is **granted**.

The above-identified application was filed on March 25, 2002. However, on April 30, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" (Notice), stating that the application had been accorded a filing date of March 25, 2002, and advising applicants that pages 3,4,7,12, and 16 of the specification appeared to have been omitted.

In response, on June 18, 2002, Petitioner filed the instant petition under 37 CFR 1.182 requesting the later June 18, 2002 filing date of the missing pages of specification.

As set forth in MPEP 601.01(g):

> "An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must, within 2 months from the date of the "Notice of Omitted Item(s)," file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 37 CFR 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 with the petition fee set forth in 37 CFR 1.17(h), requesting the later filing date (37 CFR 1.181(f))."

An oath or declaration that refers to the application as amended to include the missing figures has not been filed. Accordingly, although the petition is granted to the extent that the filing date has been assigned, the requirement of a supplemental oath or declaration is still outstanding.

The supplemental oath or declaration should be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely. See 37 CFR 1.181(f). Extensions of time are not available under 37 CFR 1.136(a).

The request for reconsideration 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: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 18, 2002, and an indication in Office records that the entire specification, including pages 3,4,7,12, and 16, were present on filing.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Scott Ledford in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Petitions Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CATERPILLAR INC.
100 N.E. ADAMS STREET
PATENT DEPT.
PEORIA, IL 61629-6490

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NOV 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Kurtis C. Kelley, et. al. :
Application No. 10/105,986 : ON PETITION
Filed: March 25, 2002 :
Attorney Docket No. 97-480.2 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee and publication fee.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,330 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The Office hereby acknowledges that the issue fee payment and publication fee were submitted on May 28, 2004.

The application file is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

VIERRA MAGEN MARCUS HARMON & DeNIRO
685 MARKET STREET, SUITE 540
SAN FRANCISCO, CA 94105-4206

COPY MAILED

FEB 12 2003

OFFICE OF PETITIONS

In re Application of
Dave Hass et al
Application No. 10/105,993
Filed: March 25, 2002
Attorney Docket No. JNP-0258

NOTICE

This is in response to the paper filed December 20, 2002 under 37 CFR 1.28(b) requesting that status as a Small Entity be removed.

In accordance with the December 20, 2002 request, status as a Small Entity has been removed.

The file does not indicate a change of address has been submitted, although the address given on the notification 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 notice is being mailed to the address given on the notification; however, the Office will mail all future correspondence solely to the address of record.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

The application will be forwarded to the Office of Initial Patent Examination Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JUNIPER NETWORKS INC.
1194 N. MATHILDA AVENUE
SUNNYVALE, CA 94089

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

ALLEN M. LO
JUNIPER NETWORKS INC
1194 N. MATHILDA AVENUE
SUNNYVALE, CA 94089

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FEB 27 2003

OFFICE OF PETITIONS

In re Application of :
David Hass et al :
Application No. 10/105,993 : DECISION GRANTING STATUS
Filed: March 25, 2002 : UNDER 37 CFR 1.47(A)
For: RING BASED MULTI-PROCESSOR :
SYSTEM :

This is in response to the petition under 37 CFR 1.47(a), filed October 24, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventors have 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 inventors 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 Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to the Office of Initial Patent Examination for preexamination processing.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DAVID HASS
1745 NANTUCKET CIRCLE
APT. 268
SANTA CLARA, CA 94588

COPY MAILED

FEB 27 2003

OFFICE OF PETITIONS

In re Application of
Hass; Vilas; Gruner; Panwar and Zaidi
Application No. 10/105,993
Filed: March 25, 2002
For: RING BASED MULTI-PROCESSOR SYSTEM

Dear Mr. Hass:

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 Wan Laymon at (703) 306-5685. 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:
ALLEN M. LO
JUNIPER NETWORKS INC
1194 N. MATHILDA AVENUE
SUNNYVALE, CA 94089

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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RAMESH PANWAR
3544 ROCCA COURT
PLEASANTON, CA 94588

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FEB 27 2003

OFFICE OF PETITIONS

In re Application of
Hass; Vilas; Gruner; Panwar and Zaidi
Application No. 10/105,993
Filed: March 25, 2002
For: RING BASED MULTI-PROCESSOR SYSTEM

Dear Mr. Panwar:

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 Wan Laymon at (703) 306-5685. 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:
ALLEN M. LO
JUNIPER NETWORKS INC
1194 N. MATHILDA AVENUE
SUNNYVALE, CA 94089

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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FISH & RICHARDSON
225 FRANKLIN STREET
BOSTON MA 02110

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DEC 10 2004

OFFICE OF PETITIONS

In re Application of :
George C. Zguris :
Application No. 10/105,995 : ON PETITION
Filed: March 25, 2002 :
Attorney Docket No. 13766-007001 :

This is a decision on the petition, filed December 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

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

[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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Paper No. _____

Date : December 10, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/105,995

Applicant(s) :George C. Zguris et al
Application No. :10/105,995
Filed :March 25, 2002

The above-identified application has been assigned Patent No. 6,833,189 and an issue date of December 21, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicants.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 21, 2004:

"All reference to Patent No. 6,833,189 to George C. Zguris et al of New Hampshire for GLASS FIBERS appearing in the Official Gazette of December 21, 2004 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

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JUL 1 2 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Darrel R. Galloway et al :
Application No. 10/106,014 :
Filed: March 25, 2002 :
Attorney Docket No. 22727/04114 :

This is a decision on the petition, filed July 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1645 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper 24

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of :
Galloway et al. :
Application No. 10/106,014 : DECISION ON PETITION
Filed: March 25, 2002 :
Attorney Docket No. 22727/04114 :

This is a decision on the petition under 37 CFR §1.137(b), filed July 1, 2004 to revive the above-identified application.

This above-identified application became abandoned for failure to file a timely response to a final Office Action which was mailed on May 7, 2003. The final Office Action set a three (3) month shortened statutory period for reply. A one (1) month extension of time was obtained under the provisions of 37 CFR §1.136(a). The finality of the Final Office action was withdrawn November 21, 2003. However the maximum period for reply and withdrawal of the finality of the Office Action was November 7, 2003. Accordingly, this application became abandoned on September 8, 2003. 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 gap in prosecution is being closed by this decision.

Pursuant to petitioner's request deposit account 03-0172 is being charged the $1330.00 petition to revive fee.

This application is being forwarded to Technology Center 1600 for further processing of the RCE.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 25 2005

OFFICE OF PETITIONS

CALFEE HALTER & GRISWOLD
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

In re Application of :
Darrel R. Galloway et al :
Application No. 10/106,014 : ON PETITION
Filed: March 25, 2002 :
Attorney Docket No. 22727/04114 :

This is a decision on the petition, filed May 24, 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 13, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1645 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

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON, DC 20037

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OCT 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Atsunori Himoto et al :
Application No. 10/106,022 : DECISION GRANTING PETITION
Filed: March 27, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. K6510.0032/P032-B :

This is a decision on the petition, filed October 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3713 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 or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/20/09

TO SPE OF : ART UNIT 2188

SUBJECT : Request for Certificate of Correction for Appl. No.: 10106025 Patent No.: 7003646 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: All proposed changes are approved.

Formatted: Indent: Left: 1.22"

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Pierre M. Vital/ 2169

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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WHITHAM CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD, SUITE 340
RESTON, VA 20190

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FEB 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Reishi Kondo :
Application No. 10/106,054 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. 02090044AA :

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 23, 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 June 24, 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 2626 for further processing.

Irvin Dingle
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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APR 07 2010

OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST.
NEW YORK, NY 10017

In re Patent No. 6,982,067	:	
Issue Date: January 3, 2006	:	
Application No. 10/106,055	:	ON PETITION
Filed: May 27, 2002	:	
Patentee(s) Andrew M. Ward	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 26, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

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MAR 13 2006

OFFICE OF PETITIONS

In re Application of
G. Finn Wredenhagen et al.
Application No. 10/106,060
Filing Date: March 27, 2002
Attorney Docket No. 1020457-0022
Title: SYSTEM AND METHOD OF SCALING IMAGES USING ADAPTIVE NEAREST NEIGHBOUR

DECISION ON PETITION UNDER 37 C.F.R. §§1.78(A)(3) AND 1.55(C)

This is a decision on the petition field September 16, 2005, which is being treated as a petition 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 a prior-filed nonprovisional application, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed amendment..

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR §1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim

herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR §1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR §1.78(a)(3).

37 CFR §1.78(a)(3) requires 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. Since the statement in the petition varies from the required language, the statement will be construed as the statement required by 37 CFR §1.78(a)(3). Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

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 submitted; and (3) the petition contains an adequate 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 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. §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.

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, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The 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.

Petitioner has met requirements (1), (3), and (5) above.

Regarding the second requirement above, the declaration filed on June 13, 2002 fails to identify the foreign application for which priority is claimed by application number, country and filing date. Petitioner has merely submitted an amendment to the first line of the specification, and this is insufficient to comply with this section.

Regarding the fourth requirement above, 37 C.F.R. §1.55(c)(3) requires 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. Since the statement in the petition varies from the required language, the statement will be construed as the statement required by 37 CFR §1.55(c)(3). Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

For this reason, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **dismissed**.

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 Senior Attorney Paul Shanoski at (571) 272-3225.

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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DONALD A BERGQUIST
PATENT SERVICES COMPANY
17145 MISTY LAKE DRIVE
STRONGSVILLE OH 44136-7361

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OCT 2 4 2008

OFFICE OF PETITIONS

Patent No. 6,750,398 :
Application No. 10/106,080 :
Filed: March 26, 2002 : ON PETITION
Issued: June 15, 2004 :
Attorney Docket No. PS00-16 :

This is a decision on the petition under 37 CFR 1.378(c), filed September 16, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued June 15, 2004. The last day of the grace period for paying the 3.5-year maintenance fee was June 15, 2008. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office. Also, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. A courtesy copy of this decision is being mailed to the address on the petition; however, all future correspondence will be mailed solely to the address of record.

Petitioner should note that submission of a power of attorney and/or a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted to the Maintenance Fee Division.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

The patent file is being forwarded to Files Repository.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: DRIGGS, HOGG, DAUGHERTY & DEL ZOPPO CO., L.P.A.
38500 CHARDON ROAD
WILLOUGHBY HILLS, OH 44094

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 8

LAUREN L. STEVENS PH.D.
PERLEGEN SCIENCES INC.
2021 STIERLIN COURT
MOUNTAIN VIEW CA 94043

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AUG 1 2002

OFFICE OF PETITIONS

In re Application of
Patil et al
Application No. 10/106,097
Filed: July 8, 2002
Attorney Docket No. 1005U-1

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(f)

This is a decision on the petition, filed July 8, 2002, and supplemented on July 31, 2002, 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 April 2, 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 November 7, 2002 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 1623 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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PLATON N. MANDROS
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

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JUL 03 2006

OFFICE OF PETITIONS

In re Application of :
Hideo Mae, et al. :
Application No. 10/106,099 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No.: 009683-399 :

This is a decision on the petition, filed June 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 18, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2154 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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JUL 03 2006

OFFICE OF PETITIONS

Date : July 3, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Hideo Mae, et al.
Application No. : 10/106,099
Filed : March 27, 2002

The above-identified application has been assigned Patent No. 7,080,125 and an issue date of July 18, 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 July 18, 2006:

> "All reference to Patent No. 7,080,125 to HIDEO MAE, ET AL. of JAPAN for DATA COMMUNICATION APPARATUS CAPABLE OF REWRITING FIRMWARE appearing in the Official Gazette of July 18, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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PLATON N. MANDROS
BURNS DOANE SWECKER & MATHIS LLP
P.O. Box 1404
ALEXANDRIA,VA 22313-1404

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OFFICE OF PETITIONS

In re Application of	:	
MAE, et al.	:	
Application No. 10/106,099	:	DECISION GRANTING PETITION
Filed: March 27, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 009683-399	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 21, 2006, 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 24, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2154 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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BURNS, DOANE, SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

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OFFICE OF PETITIONS

In re Application of :
Erhard Liebig et al :
Application No. 10/106,105 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. 033275-358 :

This is a decision on the petition, filed October 6, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 10, 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 1744 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No.

MAILED

DEC 17 2004

Technology Center 2100

Steven M. Hoffberg
MILDE & HOFFBERG, LLP
10 Bank Street – Suite 460
White Plains, NY 10606

In re Application of:
Felsher, et al.
Application No. 10/106,138
Filed: March 25, 2002
For: SYSTEM AND METHOD FOR SECURE THREE-PARTY COMMUNICATIONS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F. R. §1.102(c) and M.P.E.P. § 708.02, Section IV: Applicant's Age, filed June 09, 2004, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102(c) and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement (a copy of Dr. Robert H. Nagel's U.S. passport, demonstrating a date of birth of June 12, 1936) is over sixty five (65) years of age.

Accordingly the request is **GRANTED**. The application is being forwarded to the examiner for expedite prosecution.

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
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In re Patent No. 6861954
Issue Date: March 1,2005
Application No. 10106183
Filed: March 27,2002
Attorney Docket No. 10527/13

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 21,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 21,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6861954	2005-03-01	10/106,183	2002-03-27	L0984.0006/6US

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	/Bruce H. Levin/	Date (YYYY-MM-DD)	2009-10-21
Name	Bruce H. Levin		

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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JUL 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Jun Yoshioka :
Application No. 10/106,225 : DECISION GRANTING PETITION
Filed: March 27, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 08200.651 :

This is a decision on the petition, filed May 4, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in an eighteen month publication country on January 27, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 28, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being referred to Technology Center AU 3681 for consideration of the Request for Acknowledgement of Consideration of Disclosed Information filed May 4, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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OFFICE OF PETITIONS

In re Application of :
Jun Yoshioka :
Application No. 10/106,225 :
Filed: March 27, 2002 :
Attorney Docket No. 08200.651 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 4, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in an eighteen month publication country on January 27, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 28, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being referred to Technology Center AU 3681 for consideration of the Request for Acknowledgement of Consideration of Disclosed Information filed May 4, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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Paper No. 15

OBLON SPIVAK McCLELLAND MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of
Marcel Sanchez
Application No. 10/106,251
Filed: March 27, 2002
Attorney Docket No. 220441US2

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed July 6, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 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 (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3754 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form**must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 16

Date : July 7, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/106,251**

Applicant(s) : Marcel Sanchez
Application No. : 10/106,251
Filed : March 27, 2002

The above-identified application has been assigned Patent No. 6,766,925 and an issue date of July 27, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 27, 2004:

"All reference to Patent No. 6,766,925 to Marcel Sanchez of France for DEVICE FOR PACKAGING AND DISPENSING A PRODUCT, SUCH AS A COSMETIC PRODUCT appearing in the Official Gazette of July 27, 2004 should be deleted since no patent was granted."

Frances Hicks
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

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FT COLLINS, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of

Theodore F. Emerson:

Application No. 10/106,279

Filed: March 26, 2002

Attorney Docket No. COMP:0225 P00-3563

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), August 31, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed May 21, 2007. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on August 22, 2007. A Notice of Abandonment was mailed on September 11, 2007.

The issue fee and publication fee were received on September 5, 2007.

Form PTOL-85B was also received on August 31, 2007.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 03

Norman R. Klivans
SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

MAR - 3 2003

In re Application of: :
Maassen, *et al.* :
Application No. 10/106,280 : DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: March 25, 2002 :
For: METHOD AND APPARATUS FOR SOCKET CALIBRATION OF INTEGRATED CIRCUIT TESTERS :

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 23, 2002 and re-filed December 31, 2002.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period that can be extended under 37 C.F.R. § 1.136(a).

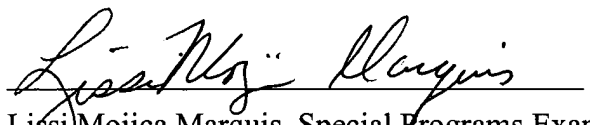
The request meets all the above requirements. The request was signed by Norman R. Klivans, an attorney of record in the above identified application and there is no outstanding Office action requiring a response by the applicant.

The request is approved.

The application currently has no attorney of record.

All future communications from the Office will be directed to James Hao, at the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.



Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: James Hao
Wagner, Murabito & Hao LLP
Two N. Market Street
3rd Floor
San Jose, CA 95113

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

Mail Date: 04/21/2010

Applicant	: Dennis K. Dang	: DECISION ON REQUEST FOR
Patent Number	: 7620560	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/106,281	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/25/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2615** 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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Terashima et al.	:	
Application No 10/106287	:	DECISION
Filed: 03/27/2002	:	ON PETITION
Atty Docket No.:	:	
1095.1210	:	

This is a decision on the Petition to Withdraw Holding of Abandonment Under 37 CFR §1.181," filed November 7, 2007.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed April 16, 2007. The Office action set a three (3) month period for reply. No reply having been received, this application became abandoned on July 17, 2007. A Notice of Abandonment was mailed November 1, 2007.

Applicant files the present petition and asserts that a timely response to the office action was filed on August 15, 2007. In support for this assertion, Applicant files a copy of the response, and a copy of Applicant's return-receipt postcard evidencing receipt by this office of an Amendment and Reply Transmittal, and authorization to charge Applicant's deposit $120.00.

A review of the return-receipt postcard reveals that the serial number placed on the postcard was 10/067,287, and not 10/106,287. A further review of the postcard reveals that the correct applicant, title of the invention, application filing date and attorney docket number were included on the postcard. A review of the Reply Transmittal reveals that it contained the correct applicant, title of the invention, application filing date, attorney docket number, Group Art Unit and examiner name.

In view of the above, it is apparent that the response to the Office action was filed in this Office on August 15, 2007, and due to errors on the part of Applicant and this Office, was inadvertently misplaced. Accord MPEP 502.

Accordingly, the holding of abandonment is hereby withdrawn.

The one (1) month extension of time fee has been charged to Applicant's deposit account as authorized in the Reply Transmittal.

The application will be referred to the Technology Center Art Unit 3691 for processing of the reply, 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

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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 :
Xuesong Wang :
Application No. 10/106,297 : DECISION ON PETITION
Filed: 25 March, 2002 :
Atty Docket No. 16747P-017900US :

This is a decision on the petition filed on 18 May, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 8 September, 2005, for failure to timely submit a reply to the non-final Office action

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

mailed on 7 June, 2005, 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. The filing of the present petition precedes the mailing of Notice of Abandonment.

The present petition is accompanied by an amendment to the specification.

This application is being referred to Technology Center Art Unit 2193 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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JOHNSON & STAINBROOK LLP
3558 ROUND BARN BLVD
SUITE 203
SANTA ROSA CA 95403

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OFFICE OF PETITIONS

In re Application of	:	
Scott Duncan	:	
Application No. 10/106,304	:	ON PETITION
Filed: March 25, 2002	:	
Attorney Docket No. 00804.P3US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 2004.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed March 11, 2003. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 12, 2003. A Notice of Abandonment was mailed on October 28, 2003.

Petitioner has paid the petition fee, submitted the required reply in the form of an amendment, and made the proper statement of unintentional delay.

Receipt of the terminal disclaimer, submitted with the petition, is acknowledged.

The Revocation and Power of Attorney has been entered. Future correspondence concerning this application will be mailed to the above address of record.

The application file is being forwarded to Group Art Unit 3751 for consideration of the amendment filed November 2, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Technology Center 2100

Fernandez & Associates LLP
PO Box D
Menlo Park, CA 94026-6402

In re Application of:
Subramani KENGERI, et al.
Application No. 10/106,305
Filed: March 22, 2002
For: ERROR CHECKING AND CORRECTING FOR CONTENT ADDRESSABLE MEMORIES (CAMs)

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed July 15, 2004.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on September 13, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Martine & Penilla LLP as the attorney (s) of record of the instant application. The Power of Attorney of September 13, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Martine & Penilla LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Martine & Penilla LLP
710 Lakeway Drive
Suite 170
Sunnyvale, CA 94085

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1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Keith Ball	: DECISION ON REQUEST FOR
Patent Number	: 7664864	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/106,311	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1184** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

S. MATTHEW CAIRNS
C/O EDWARDS & ANGELL, LLP
DIKE, BRONSTEIN, ROBERTS &
CUSHMAN, IP GROUP
PO BOX 9169
BOSTON, MA 02209

COPY MAILED

MAR 2 3 2004

OFFICE OF PETITIONS

In re Application of :
You et al. :
Application No. 10/106,338 : ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. 50767 :

This decision concerns the petition under 37 CFR 1.137(b), filed on March 15, 2004, to revive the above-referenced application.

The petition is **GRANTED.**

The application, upon filing, lacked an oath or declaration.

On April 24, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, setting forth an extendable 2-month period for submitting a proper oath or declaration. No response was received on or before November 24, 2002, and no extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned on June 25, 2002. The instant petition seeks to revive the application under 37 CFR 1.137(b).

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: (1) a proper oath or declaration and the $130 surcharge for late filing of such an oath/declaration; (2) the $1,330 petition fee; and (3) a statement that the entire delay in filing the oath/declaration from its due date until the filing of a grantable §1.137(b) petition was unintentional.

The instant petition meets the above requirements and is thus granted. The application is now complete.

In addition, the petition, filed by one of the attorneys-of-record, uses a correspondence address different from that in the USPTO record for this application. While a courtesy copy of the decision is being sent to the address indicated in the petition, all future correspondence on this application will be mailed to the current address-of-record unless the USPTO is properly instructed otherwise.

The file is being forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

cc: S. Matthew Cairns, Esq.
Edwards & Angell, LLP
PO Box 55874
Boston, MA 02209

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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OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT, PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

COPY MAILED

JUN 2 4 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Kazuhiro Nakashima et al
Application No. 10/106,344
Filed: March 27, 2002
Attorney Docket No. 221404US2SRD

This is a decision on the petition under 37 CFR 1.313 (c)(2), filed June 22, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2625 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).

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)
6,683,256	2004-01-27	10/106,353	2002-03-27	7014.102

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	/Demian K. Jackson/	Date (YYYY-MM-DD)	2010-01-12
Name	Demian K. Jackson	Registration Number	57551

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6683256
Issue Date: January 27,2004
Application No. 10106353
Filed: March 27,2002
Attorney Docket No. BHT-3214-11

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 12,2010 ,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 12,2010 . 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.

SPE C. Kuntz

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/106,357

Paper No.: _____

DATE : 8/24/05

TO SPE OF : ART UNIT 2643

SUBJECT : Request for Certificate of Correction on Patent No.: 6876732

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

CHRIS KUNTZ
SUPERVISORY PATENT EXAMINER

SPE

2643

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

#10

Trexler, Bushnell, Giangiorgi,
Blackstone & Marr, Ltd.
36th Floor
105 W. Adams
Chicago, IL 60603

MAILED

OCT 17 2003

Office of the Director

In re Application of
Malcom Richard Greenfield
Application No. 10/106,394
Filed: March 26, 2002
For: PET BEDS

: DECISION ON PETITION
: TO WITHDRAW THE
: HOLDING OF ABANDONMENT

The paper filed July 29, 2003 has been treated as a Petition to Withdrawal the Holding of Abandonment.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated _____

☐ USPTO return facsimile receipt dated_____.

☒ Certificate of Mailing/Transmission signed on June 4, 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 examiner for appropriate action.

en/10/15/03

STEVEN N. MEYERS
SPECIAL PROGRAM 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

Mail Date: AUG 24 2004

PAPER NO.

In re Application of :
Chong, Zhu :
Serial No: 10/106,402 :
Filed: March 26, 2002 :
For: A METHOD OF PROCESSING PORKHIDE DOG CHEWS :

DECISION
ON
PETITION
UNDER 708.02,VIII

This is in response to the petition filed July 10, 2002, requesting that the above-identified application be granted Special Status. The petition has been considered under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(d) (fee paid).

The petition has been found to be deficient for the following reason: Section 708.02, VIII(C) requires that a pre-examination search be made; this search should cover all areas searchable by the examiner. However, our review shows Class 426, subclasses 3, 313, 513,and 805; Class 44, subclasses 605, 606, and 628; and Class 119, subclasses 702, 707, and 709-711 should have been searched.

Accordingly, the petition is **DENIED.**

Marian C Knode

Marian C. Knode, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

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.
10/106,402	03/26/2002	Zhu Zhao Chong	HSM 0115 PUSA	1518

22045 7590 10/24/2008

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

EXAMINER	
BECKER, DREW E	

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
10/24/2008	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
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10/24/08

gm

Mailed :	:	
In re Application of	:	DECISION
Zhu Zhao Chong	:	ON
Serial No. 10/106,402	:	PETITION
Filed: March 26, 2002	:	
For: METHOD OF PROCESSING PORKHIDE DOG CHEWS	:	

This is a decision on the October 10, 2008, "Petition to the Director under 37 CFR 1.181 and 1.182" requesting that various instructions be given to the examiner as described below and that the IDS filed September 15, 2008 be considered.

The instant application was filed on March 26, 2002, received a first action on the merits on April 20, 2004, and has been undergoing prosecution since that time. Most recently, an information disclosure statement (IDS) was filed on September 15, 2008. The examiner refused to consider the IDS in an advisory action mailed September 19, 2008.

The instant petition was then timely filed on October 10, 2008 and is before the Director of Technology Center 1700 for consideration.

The petition is **DISMISSED-IN-PART** and **GRANTED-IN-PART** for the reasons below.

DECISION

The instant petition makes several requests of the Director, summarized briefly here:

1. Instruct the examiner to issue complete actions;
2. Instruct the examiner to cite the best references;
3. Instruct the examiner to clearly articulate any rejection;
4. Instruct the examiner to discontinue switching references;
5. Instruct the examiner to confine prosecution to as few actions as possible;
6. Instruct the examiner to avoid piecemeal examination;
7. Instruct the supervisory patent examiner to impress upon the examiner the importance of finding and correctly applying the best references in the first action;
8. Instruct the supervisory patent examiner to personally check on the pendency of the application with a view to concluding its prosecution;

9. Instruct the supervisory patent examiner to make every effort to terminate the prosecution of the application; and
10. Instruct the examiner to consider the IDS of September 15, 2008.

While the prolonged prosecution of this application is regrettable, the first nine items above are not directed to any particular "action or requirement" by the examiner (37 CFR 1.181(a)(1)), nor is the relief requested a tangible "action" which could be taken in the continued course of prosecution of the instant application (37 CFR 1.181(b)). As such, these requests are necessarily **DISMISSED**.

With respect to item 10 above, however, applicant is clearly correct. The IDS of September 15, 2008 was filed with both the required fee set forth in 37 CFR 1.17(p) and the statement required by 37 CFR 1.97(e). Accordingly applicant's request to have the examiner consider the IDS is **GRANTED** and the examiner is instructed to consider the IDS of September 15, 2008.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

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)
6842321	2005-01-11	10106423	2002-03-26	TI-32109

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Wade J. Brady III/	Date (YYYY-MM-DD)	2009-03-26
Name	Wade J. Brady III	Registration Number	32080

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6842321
Issue Date: January 11,2005
Application No. 10106423
Filed: March 26,2002
Attorney Docket No. TI-32109

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 26,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 26,2009 . 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
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 4

SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

MAIL

DEC 27 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:
10/106,475

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

OCT 06 2003

TECHNOLOGY CENTER

Kalow & Springut LLP
488 Madison Avenue
19th Floor
New York, NY
10022

Paper No. 6

In re application of
Greg Rotman et al.
Application No.10/106,476
Filed: March 25, 2002
For: METHOD AND SYSTEM FOR IMPROVED AUCTION

: **DECISION ON PETITION**
: **TO MAKE SPECIALM**
: **(INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed August 21, 2003 to make the above-identified application special.

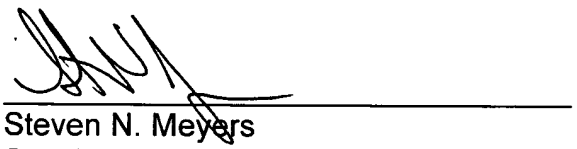
The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed August 21, 2003 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/ekn 10/1/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

COPY MAILED

JAN 25 2006

OFFICE OF PETITIONS

In re Application of :
Rotman et al :
Application No. 10/106,476 : DECISION ON PETITION
Filed: March 25, 2002 :
Attorney Docket No. 63910.000002 :

This application is before this office due to the petition under 37 CFR 1.183 filed on June 28, 2005, requesting waiver of the rules such that the USPTO withhold publication of all future patent prosecution documents until either abandonment or issuance.

The petition under 37 CFR 1.183 is dismissed.

Petitioner asserts that the assignee of the entire interest herein has been adversely affected by what "logically appears to be insider stock trading based upon information that is only available to authorized USPTO personnel."

In order for grant of any petition under 37 CFR 1.183, petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985). Petitioner has not shown that either condition exists in this case.

Indeed, it would seem that the lack of making public the remainder of the prosecution history herein of this already published application would tend to exacerbate, not relieve, the possibility of any "insider information" arising as by definition, "insider information" is that information which is not available to the public. Furthermore, inspection of the USPTO record herein, and the assertions made in the petition, do not conclusively support petitioner's general allegation that "insider information" is all or part of the cause of the alleged harm, much less that the source of any or all of any alleged "insider information" is "[one or more] of authorized USPTO personnel."

It is further noted that 37 CFR 1.3 provides in pertinent part that: "[c]omplaints against examiners and other employees must be made in correspondence separate from other papers." Petitioner is advised that if he is aware of any specific impropriety(s) engaged by specific USPTO personnel, he should make all relevant information known to the USPTO in writing and in a manner consistent with 37

CFR 1.3 as previously quoted. That is, should any complaint and supporting information be forthcoming, such must not be captioned for inclusion in any given application. The USPTO stands ready, in its supervisory capacity, to consider any *specific* facts and information *vis-a-vis* any *specific* employee(s).

This application is being referenced to the Technology Center for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

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
www.uspto.gov

JUL 14 2004

In re Application of :
Kristan Soboleski et al. :
Serial No. 10/106,477 : DECISION ON PETITION
Filed: March 20, 2002 : TO WITHDRAW AS ATTORNEY
For: LUGGAGE SECURITY SYSTEM:

By papers filed on April 16, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the correspondence address for this application is:

Kristan M. Soboleski
25186 Flanders Drive
Carmel, CA 93923

E. Rollins-Cross, Director
Technology Center 3700

Michael S. Neustel
Neustel Law Offices, Ltd.
2534 S. University Drive, Suite 4
Fargo, ND 58103

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Arlington, VA 22313-1450
www.uspto.gov

JAMES HESLIN
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Martin S. Dieck :
Application No. 10/106,483 :
Filed: March 25, 2002 :
Attorney Docket No. 021186-0004000US :

DECISION ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR §1.137(b), filed January 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected formal drawings in a timely manner in reply to the Notice of Drawing Inconsistency with Specification mailed October 14, 2004, which set a non-extendable period for reply of thirty (30) days or one (1) month, whichever is longer. A reply was received on October 27, 2004, which did not cure the deficiencies of the drawings filed October 14, 2004, and a subsequent Notice of Drawing Inconsistency with Specification was mailed on October 27, 2004. Accordingly, the application became abandoned on November 28, 2004. A Notice of Abandonment was mailed on December 20, 2004 to the above address of record.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the required reply including formal drawings at the time of filing the petition; (2) the petition fee of $750.00 (for a small entity) at the time of filing the petition; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Drawing Inconsistency with Specification mailed October 27, 2004 is accepted as having been unintentionally delayed. A copy of the PTO-948 Draftsman Review Form approving the drawings submitted January 24, 2005 is attached.

This matter is being referred to the Office of Patent Publication to be processed into a patent.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

Attachment: PTO-948 Draftsman Review Form

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Patent No. 6,839,984 :
Issue Date: January 11, 2005 :
Application No. 10/106,505 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. 220782US6CONT :

This is a decision on the petition filed February 2, 2005, which is being 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 request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

[1] See Official Gazette of June 22, 2004

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

O.K. to enter CW 9/16/2005

PATENT NO. : 6,907,439 B1

APPLICATION NO.: 10/106,509

ISSUE DATE : June 14, 2005

INVENTOR(S) : David J Wicker

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Front page, first column: "This patent is subject to a terminal disclaimer." should be deleted.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Lattice Semiconductor Corporation
5555 NE Moore Ct.
Hillsboro, OR 97124

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

AUG 19 2005

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/24/2005

TO SPE OF : ART UNIT 2193

SUBJECT : Request for Certificate of Correction on Patent No.: 10/106509 6907439

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:

KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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EDWARDS LIFESCIENCES LLC
LAW DEPARTMENT
ONE EDWARDS WAY
IRVINE, CA 92614

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NOV 07 2005

OFFICE OF PETITIONS

In re Application of :
Stefan Schreck :
Application No. 10/106,583 : DECISION GRANTING PETITION
Filed: March 26, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ECV-5624 :

This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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 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 3731 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 or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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October 3, 2007

Robert J. Sacco
SACCO & ASSOCIATES, P.A.
P.O. Box 30999
Palm Beach Gardens, FL 33420-0999

Patent No: 6,980,224 B2
Application No: 10/106644
Applicant: Kenneth J. Wiant, Jr.
Issued: December 27, 2005
Title: **EFFICIENT DIGITAL MAP OVERLAYS**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322/1.323.

Inspection of the column 6, line 30, of the application for the above patent reveals that the error mentioned in your request is in fact printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner.

In view of the foregoing your request in this matter are hereby **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

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)
6637962	2003-10-28	10106667	2002-03-25	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◯	3 ½ year	(1551)	◉	3 ½ year	(2551)
◯	7 ½ year	(1552)	◯	7 ½ year	(2552)
◯	11 ½ year	(1553)	◯	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◯ A joint patentee; all of whom are signing this e-petition

◯ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Steven M. Hoffberg/	Date (YYYY-MM-DD)	2009-10-28
Name	Steven M. Hoffberg	Registration Number	33511

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

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In re Patent No. 6637962
Issue Date: October 28,2003
Application No. 10106667
Filed: March 25,2002
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 28,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 28,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JAMES M. STOVER
NCR CORPORATION
1700 SOUTH PATTERSON BLVD, WHQ4
DAYTON OH 45479

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APR 25 2006
OFFICE OF PETITIONS

In re Application of :
Cohen, et al. :
Application No. 10/106,699 : ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. 10477 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 16, 2006 (certificate of mailing date March 10, 2006), to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed October 3, 2005. Accordingly, this application became abandoned on January 4, 2006. A Notice of Abandonment was mailed on February 22, 2006.

Applicants have submitted a proper reply in the form of the issue fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the October 3, 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 consideration of the request to substitute formal drawings for the original drawings filed on March 26, 2002.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JAMES M. STOVER
NCR CORPORATION
1700 SOUTH PATTERSON BLVD, WHQ4
DAYTON OH 45479

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APR 25 2006
OFFICE OF PETITIONS

In re Application of :
Cohen, et al. :
Application No. 10/106,699 :
Filed: March 26, 2002 :
Attorney Docket No. 10477 :

ON PETITION

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APR 26 2006
OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.137(b), filed March 16, 2006 (certificate of mailing date March 10, 2006), to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed October 3, 2005. Accordingly, this application became abandoned on January 4, 2006. A Notice of Abandonment was mailed on February 22, 2006.

Applicants have submitted a proper reply in the form of the issue fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the October 3, 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 consideration of the request to substitute formal drawings for the original drawings filed on March 26, 2002.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

MAILED

NOV 1 9 2002

Technology Center 2100

In re Application of:
Yuichi Kadoya
Application No. 10/106,700
Filed: March 25, 2002
For: CONTROL METHOD FOR PROGRAM AND DATA, AND COMPUTER

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed September 25, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. **37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.**

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

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

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

MAILED

DEC 1 3 2002

Technology Center 2100

In re Application of: Yuichi Kadoya)
Application No. 10/106,700)
Filed: March 25, 2002) **DECISION ON REQUEST FOR**
For: CONTROL METHOD FOR) **WITHDRAWAL AS ATTORNEY**
PROGRAM AND DATA, AND)
COMPUTER)

This is a decision on the Request To Withdraw from Representation filed December 3, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Yuichi Kadoya
KNN Inc.
980 N. Michigan Avenue - Suite 1411
Chicago, IL 60611

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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DYKEMA GOSSETT PLLC
39577 WOODWARD AVENUE
SUITE 300
BLOOMFIELD HILLS, MI 48304-5086

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MAR 10 2008

OFFICE OF PETITIONS

In re Application of :
Randy L. WALTER, et al :
Application No. 10/106,705 : DECISION ON PETITION
Filed: March 26, 2002 : TO WITHDRAW
Attorney Docket No. 65.239-002 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 7, 2007.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does 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, "if 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 reason set forth in the request, per the request of new counsel, does not meet any of the conditions set forth in 37 CFR 10.40.

The request cannot be approved because the attorneys of record were not appointed by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed February 20, 2008 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: GENERAL ELECTRIC COMPANY
GE AVIATION
ONE NEUMANN WAY MD H17
CINCINNATI, OH 45215

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 3

ERIC M. DOBRUSIN
DOBRUSIN & THENNISCH PC
401 S. OLD WOODWARD AVENUE, STE. 311
BIRMINGHAM, MI 48009

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MAR 0 6 2003

OFFICE OF PETITIONS

In re Application :
Shih-Wei Chou et al :
Application No. ~~10/106,733~~ 10/106,722 : LETTER
Filed: March 26, 2002 :
Attorney Docket No. 1012-065D3 :

This is in response to the paper filed February 25, 2003 which is being treated as a petition under 37 CFR 1.28(b) requesting that status as a Small Entity be removed.

In accordance with the February 25, 2003 request, status as a Small Entity has been removed.

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
(703) 306-5684

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

ERIC M. DOBRUSIN
DOBRUSIN & THENNISCH PC
401 S. OLD WOODWARD AVENUE, STE. 311
BIRMINGHAM, MI 48009

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MAR 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Christopher J. Warren et al :
Application No. 10/106,722 :
Filed: March 26, 2002 :
Attorney Docket No. 1012-065D3 :

NOTICE

CORRECTED 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**.

The notice mailed March 6, 2003 is hereby vacated as of the mail date of this notice.

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

JAN 18 2006

Manny Lugo
10370 Blythe Dr.
El Paso, TX 79924

In re Application of :
Manny Lugo :
Application No. 10/106,735 :
Filed: March 25, 2002 :
For: RELIGIOUS STEERING WHEEL COVER

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on August 10, 2004.

The petition is **DENIED**.

A review of the file record reveals that an Informal or Not Fully Responsive response to the non-Final Office action was mailed on October 2, 2003, setting a one-month shortened statutory period for response. Applicant on October 31, 2003 paid for a one-month extension. Applicant indicated that he wanted a two-month extension; however, the fee paid by applicant was for one-month only. By paying for the one-month extension, a period for reply to the October 2, 2003 Informal or Not Fully Responsive was extended to December 2, 2003.

Petitioner has filed the present petition to withdraw the holding of abandonment. Petitioner urges that response dated January 5, 2004 and again on January 29, 2004 were within the allotted time period for the Informal or Not Fully Responsive action mailed October 2, 2003.

Applicant filed a response to October 2, 2003 Informal or Not Fully Responsive action on January 5, 2004 without paying any additional extensions of time. A review of the file indicates that applicant did not provide authorization for charging additional fees to his account. Applicant submitted the January 5, 2004 response again on January 29, 2004. Again no fees for the extension of time period were paid by applicant. The application was Properly abandoned on September 3, 2004.

Applicant's petition, and evidence submitted, is insufficient to withdraw the holding of abandonment. In this regard, while it is unfortunate and regrettable that applicant could

have extended the time period for up to six-months by paying the necessary fees no such action or authorization by applicant was provided to the office.

Thus, there is no Office error and the application is properly abandoned.

Applicants 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 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(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 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 (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 petition fee required by law for filing a petition under unavoidable standard is $500. The fee for a petition under the unintentional standard is $1,500. If applicants have, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

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 for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries should be directed to the Office of Petitions Staff at (571) 272-3282.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/bkg: 1/11/06

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KEVIN FARRELL
PIERCE ATWOOD
ONE NEW HAMPSHIRE AVENUE
PORTSMOUTH NH 03801

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FEB 23 2005

OFFICE OF PETITIONS

In re Application of :
Jennifer Ann Hruska et al :
Application No. 10/106,743 : DECISION GRANTING PETITION
Filed: March 26, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 17048-4033 :

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 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 August 25, 2003, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2837.

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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ROCHELLE K. SEIDE
BAKER BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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DEC 23 2005

OFFICE OF PETITIONS

In re Application of :
David J. Grainger et al :
Application No. 10/106,761 : ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. 295.011US2 :

This is a decision on the petition, filed December 19, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 4, 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 1639 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).

UNITED STATES 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

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

COPY MAILED

SEP 11 2006

OFFICE OF PETITIONS

In re Application of :
Alan Gardner Goodridge Jr. :
Application No. 10/106,766 : DECISION ON PETITION
Filed: March 27, 2002 : UNDER 37 C.F.R. §1.182
Attorney Docket No. GOOD0001 :
Title: SYSTEM FOR ENABLING :
OMNIDIRECTIONAL NAVIGATION OF :
HIERARCHICAL NETWORKS WITH :
SPATIAL CONTINUITY :

This is a decision on the petition under 37 C.F.R. §1.78, which is properly treated as a petition under 37 C.F.R. §1.182. The petition was submitted on May 30, 2006, requesting that the above-identified application be accorded a filing date of March 26, 2002.

In short, Petitioner has requested that the Office accord a filing date of March 26, 2002 so that the present application can obtain the benefit of US provisional application 60/278,372, filed March 26, 2001.

Office records show that on May 15, 2002, a filing receipt was mailed to the inventor, indicating that the present application had been granted a filing date of March 27, 2002. It is noted in passing that the present petition was not filed until almost four years had passed.

THE RELEVANT PORTIONS OF THE STATUTES AND RULES

35 U.S.C. 21(a) sets forth, *in toto*:

The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

37 C.F.R. § 1.6(a) sets forth, *in toto*:

(a) Date of receipt and Express Mail date of deposit. Correspondence received in the Patent and Trademark Office is stamped with the date of receipt except as follows:
(1) The Patent and Trademark Office is not open for the filing of correspondence on any day that is a Saturday, Sunday, or Federal holiday within the District of Columbia. Except for correspondence transmitted by facsimile under paragraph (a)(3) of this section, or filed electronically under paragraph (a)(4) of this section, no correspondence is received in the Office on Saturdays, Sundays, or Federal holidays within the District of Columbia.
(2) Correspondence filed in accordance with § 1.10 will be stamped with the date of deposit as "Express Mail" with the United States Postal Service.
(3) Correspondence transmitted by facsimile to the Patent and Trademark Office will be stamped with the date on which the complete transmission is received in the Patent and Trademark Office unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia, in which case the date stamped will be the next succeeding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia.
(4) [Reserved]

37 C.F.R. § 1.10(a)(1) sets forth, *in toto*:

Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.

37 C.F.R. § 1.10(i) sets forth, *in toto*:

i) Any person attempting to file correspondence under this section that was unable to be deposited with the USPS due to an interruption or emergency in "Express Mail" service which has been so designated by the Director, may petition the Director to consider such correspondence as filed on a particular date in the Office, provided that:
(1) The petition is filed in a manner designated by the Director promptly after the person becomes aware of the designated interruption or emergency in "Express Mail" service;

(2) The petition includes the original correspondence or a copy of the original correspondence; and
(3) The petition includes a statement which establishes, to the satisfaction of the Director, that the correspondence would have been deposited with the USPS but for the designated interruption or emergency in "Express Mail" service, and that the correspondence or copy of the correspondence is the original correspondence or a true copy of the correspondence originally attempted to be deposited with the USPS on the requested filing date.

37 C.F.R. § 1.53(b) sets forth, *in pertinent part*:

(b) Application filing requirements - Nonprovisional application. The filing date of an application for patent filed under this section, except for a provisional application under paragraph (c) of this section or a continued prosecution application under paragraph (d) of this section, is the date on which a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No new matter may be introduced into an application after its filing date. A continuing application, which may be a continuation, divisional, or continuation-in-part application, may be filed under the conditions specified in 35 U.S.C. 120, 121 or 365(c) and § 1.78(a).

ANALYSIS

Petitioner has set forth that the present application was deposited with FedEx Express on March 25, 2002, and priority overnight service was requested. Unfortunately, due to "severe thunderstorms, which affected both air and ground operations throughout the central United States[1]," the package was not delivered to the Office until March 27, 2002. Petitioner would have the Office assign a filing date of March 26, 2002 to the present application; but for the delay caused by the weather, the package would have been delivered to the Office on that date.

Petitioner's request cannot be granted. The provision for interruptions or emergencies in 35 U.S.C. §21(a) and 37 C.F.R. §1.10(i) is limited to correspondence deposited with the United States Postal Service. Correspondence filed by FedEx Express (or other courier services) is only entitled to the date of actual receipt in the Office, as per 37 C.F.R. §1.6(a).

1 Letter from FedEx Express, dated April 1, 2002.

CONCLUSION

For this reason, the petition under 37 C.F.R §182 is **DISMISSED.**

The filing date of the present application will remain March 27, 2002.

The "Revocation of Prior Grant and New Power of Attorney" has been entered and made of record.

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

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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DEC 11 2006

OFFICE OF PETITIONS

In re Application of :
GOODRIDGE, JR. :
Application No. 10/106,766 : DECISION ON PETITION
Filed: March 27, 2002 : TO WITHDRAW
Attorney Docket No. GOOD0001 : 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 27, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

A Review of the file discloses that a final Office action was mailed on September 28, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of September 28, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **ALAN GOODRIDGE**
1441 FALLEN LEAF LANE
LOS ALTOS, CA 94024

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Schwegman, Lundberg, Woessner & Kluth
121 S. 8th Street
Suite 1600
Minneapolis, MN 55402

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NOV 13 2007

OFFICE OF PETITIONS

In re Application of :

Matthew S. Solar et al. :
Application No. 10/106,773 : DECISION ON PETITION
Filed: March 26, 2002 : TO WITHDRAW
Attorney Docket No. 50741-000009/US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 27, 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 David C. Peterson on behalf of all attorneys of record. All attorneys/agents have been withdrawn.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Harness, Dickey & Pierce, P.L.C.**
P.O. Box 828
Bloomfield Hills, MI 48303

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/26/2010

Applicant	: Matthew S. Solar	: DECISION ON REQUEST FOR
Patent Number	: 7588581	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/106,773	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2296** 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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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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SEP 2 6 2005

OFFICE OF PETITIONS

In re Patent No. 6,787,593	:	DECISION ON REQUEST FOR
Bell et al.	:	RECONSIDERATION OF
Issue Date: September 7, 2004	:	PATENT TERM ADJUSTMENT
Application No. 10/106,780	:	and
Filed: March 27, 2002	:	NOTICE OF INTENT TO
Attorney Docket No. MASL/28	:	ISSUE CERTIFICATE OF
	:	CORRECTION
	:	

This is a decision on the "PETITION UNDER 1.181 AND 1.705(d) TO CORRECT PATENT TERM ADJUSTMENT," filed September 10, 2004. Patentees request that the patent term adjustment indicated in the patent be corrected from fifteen (15) days to forty-two (42) days. The instant petition was recently forwarded for consideration.

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 forty-two **(42)** days.

On September 7, 2004, the above-identified application matured into U.S. Patent No. 6,787,593. The instant request for reconsideration filed by facsimile on September 10, 2004 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 15 days. Patentee disputes the reduction of 27 days due to "Workflow-Drawings Finished" as there were no drawings in the case.

A review of the PALM calculations for this application reveals that the initial determination of PTA of 42 days was reduced by 27 days for applicant's submission of drawings after the mailing of the notice of allowance. See 37 CFR 1.704(c)(10). However, a review of the application record supports a conclusion that no drawings (or any other paper, aside from the instant petition) were filed in this application after the mailing of the notice of allowance. There were no drawings in this application.

In view thereof, the patent term adjustment indicated in the patent should have been forty-two **(42)** days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 23-3000, as authorized. No additional fees are required.

The fee under § 1.18(e) is required on petition under § 1.705(d) and will not be refunded. Nor will the fee be waived.

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 FORTY-TWO (42) days.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

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3/3/08

George A. Loud, Esquire
BACON & THOMAS
Fourth Floor
625 Slaters Lane
Alexandria VA 22314-1176

In re Application of:
Kumazaki, Tatsuo, et al.
Serial No.: 10/106,790
Filed: Mar. 27, 2002
Docket: n/a
Title: INTRAPELVIC PERFUSION THERAPY WITH CANCER THERAPEUTIC AGENT AND APPARATUS FOR INTRAPELVIC PERFUSION WITH CANCER THERAPEUTIC AGENT

DECISION ON PETITION

This is a decision on the petition filed on Dec. 1, 2004 by which petitioner requests the examiner be directed to withdraw the finding that the applicant has conceded "that the methods are indistinct from one another" in the response and traversal of the restriction requirement filed on Jul. 22, 2004 because the examiner's statement is factually incorrect.

This petition is dismissed as moot.

Discussion and Analysis

A review of the prosecution history shows that in a paper filed July 22, 2004, the applicant argued that the examiner's rationale for restriction of the method claims was incorrect in several respects. In particular, the applicant explained why the arbitrary classification designated by the examiner for each of the groups of claims in question was incorrect and the examiner's rationale that claims should be regarded as drawn to methods which are distinct from one another solely on the basis that they differ from one another in the steps which they claim was lacking in logic. The applicant also traversed the restriction requirement solely on the basis of errors in the rationale set forth by the examiner by way of explaining the restriction requirement. Nowhere in the response filed July 22, 2004 did the applicant argued, "that the methods are indistinct from one another."

In partially finding the traversal of the restriction requirement persuasive, on Oct. 1, 2004, the examiner withdrew the restriction requirement as to the Group I and II claimed inventions and rejoined and examined the non-elected claims 5-8 along with the elected claims 1-4. However, in the non-final Office action, the examiner noted from applicants' traverse that applicant had

stated "that the methods are indistinct from one another" and in view of this, the "Examiner has rejected both sets of methods with a single rejection".

After a careful study of the entire prosecution history, this statement appears to be the examiner's conclusion to the applicant's cogent arguments in the response to the restriction requirement filed on Jul. 22, 2004. The examiner's statement is neither derogatory nor arbitrary and capricious. Therefore, it is not believed that there is any need to direct the examiner to withdraw the harmless statement in view of the fact that those claims in question have been canceled in the subsequent amendment of Jan. 25, 2005. It must be noted that a reasonable examiner may draw conclusions to an applicant's response different from others so long as the conclusions are reasonable. The statement by the examiner will remain as part of the official record as it is not seen as derogatory and/or arbitrary, and/or capricious. Nevertheless, it should be noted that applicants may provide rebuttal with respect to the examiner's conclusion as to why the examiner is not correct.

Conclusion

In view of the totality of the prosecution record, the examiner's statement made in the Office action of Oct. 1, 2004 is construed as a conclusion drawn from the response filed by the applicant on Jul. 22, 2004. Since this statement is not derogatory and/or arbitrary, and/or capricious then, the requested relief by the petitioner will not be granted. The petition is considered moot and dismissed.

Pursuant to the Order by the Board of Patent Appeals and Interferences of Jul. 19, 2007, the application is being forwarded to the Board of Patent Appeals and Interferences for docketing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is dismissed as moot.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

SPE J. Weber

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/5/06

TO SPE OF : ART UNIT 1653

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/106,793 Patent No.: 7037895

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE 1653
SPE Art Unit

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Paper No. 6

W. EDWARD JOHANSEN
11661 SAN VICENTE BOULEVARD
LOS ANGELES, CA 90049

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OFFICE OF PETITIONS

In re Application of	:	
Daniel F. Pritchett	:	
Application No. 10/106,815	:	ON PETITION
Filed: March 25, 2002	:	
Attorney Docket No. PRITCHETT#1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 Notice to File Missing Parts of Nonprovisional Application (Notice) mailed May 3, 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 July 4, 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

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Commissioner for Patents
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Pearl Cohen Zedek Latzer, LLP
1500 Broadway, 12th Floor
New York, NY 10036

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Dov AVNI, et al. :
Application No. 10/106,817 : DECISION GRANTING PETITION
Filed: March 26, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **P-3839-US** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 15, 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 May 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 the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2622 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

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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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Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York, NY 10036

Mail Date: 04/21/2010

Applicant	: Dov Avni	: DECISION ON REQUEST FOR
Patent Number	: 7616238	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/106,817	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **954** 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 OF PATENTS

February 24, 2005

Dean H. Nakamura
Gray Cary Ware & Freidenrich
1625 Massachusetts Ave., N. W.
Suite 300
Washington, DC 20036-2247

In re Application of:
Ernst-Ludwig Winnacker, et al
Serial No: 10/106,825 On Petition
Filing Date: March 27, 2002
For: CHAPERONES CAPABLE OF BINDING TO PRION PROTEINS AND DISTINGUISHING THE ISOFORMS PRPC AND PRPSC

In response to the petition received by fax on November 24, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Non Provisional Application mailed January 2, 2004. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned March 3, 2004. The notice of abandonment was mailed on October 6, 2004.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing part of Nonprovisional Application mailed January 2, 2004.

Enclosed is a new Notice to File Missing Parts giving counsel 2 months from the date of the notice to respond.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

Enclosure: 1

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/106,825	03/27/2002	Ernst-Ludwig Winnacker	42320

CONFIRMATION NO. 9897

FORMALITIES LETTER

OC000000015270576

35928
DLA PIPER RUDNICK GRAY CARY US, LLP
1625 MASSACHUSETTS AVENUE, NW
SUITE 300
WASHINGTON, DC 20036-2247

Date Mailed: 02/24/2005

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **770** *to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

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:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 are required. The drawings submitted are not acceptable because:
  - The 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)); See Figure(s) .

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$900** for a Large Entity

- **$770** Statutory basic filing fee.
- **$130** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

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SYNGENTA BIOTECHNOLOGY, INC.
PATENT DEPARTMENT
3054 CORNWALLIS ROAD
P.O. BOX 12257
RESEARCH TRIANGLE PARK NC 27709-2257

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OFFICE OF PETITIONS

In re Application of :
Jerry F. Strissell, et al. :
Application No. 10/106,829 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. N1247-005 :

This is a decision on the petition, filed July 6, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 23, 2003, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on May 19, 2004. In response, on July 6, 2004, the present petition was filed.

The application file is being forwarded to Technology Center Art Unit 3725 for consideration of the amendment filed July 6, 2004.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9282. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Director's Office
Group 3700

In re Application of
Walter G. Klemperer
Application No. 10/106,838
Filed: March 26, 2002
Attorney Docket No. FR-2

: DECISION ON PETITION

This is a decision on the petition filed on May 27, 2004 by which petitioner requests supervisory review of the examiner's requirement to restrict the claims in this application. The restriction requirement was repeated and made final May 7, 2004. No fee is required for the petition.

The petition is granted.

Petitioner questions the propriety of the restriction requirement on the basis that as originally filed, this application contained claims 1-25 that were all examined in a first action on the merits dated February 5, 2003. After that examination, and in response thereto, petitioner filed a reply in which claim 2 was canceled, certain of claims 1 and 3-25 were amended, and claims 26-60 were added. The examiner than promulgated a restriction requirement, holding that the claims were directed to five different patentably distinct inventions, and held that some of the original claims were directed to each of those allegedly patentably distinct inventions. Petitioner does not understand why original claims 1-25 were not held to be patentably distinct, but are now being held to be directed to five patentably distinct inventions after they had been examined on their merits. Petitioner argues that restriction should be made as early as possible in the prosecution, and no later than the first Office Action unless there is a change during prosecution that necessitates a restriction. Petitioner cites 37 CFR 1.142 and MPEP § 811 in support of this argument. Petitioner also argues that there can be no serious burden on the examiner in requiring restriction when the five allegedly patentably distinct inventions to which the claims are directed have received an examination on the merits.

Petitioner's arguments are not deemed to mandate a reversal of the examiner's action in requiring restriction as a matter of practice that is always controlling. 37 CFR 1.142 permits restriction to be made by the examiner at any time prior to final action. Moreover, the question of burden is clearly dependent upon the facts of each application, and there is no general rule that mandates that a restriction between claims for which a search and examination has been made would always be erroneous because there can be no burden upon the examiner once the claims have been searched and examined. This is true particularly in this application, wherein additional claims have been added, and new claims 26-60 were also deemed to be directed to the five allegedly patentably distinct inventions. The examiner is unable to require restriction among claims 26-60 without also requiring restriction among claims 1 and 3-25.

Nevertheless, a review of the entire record shows that, as promulgated, the examiner's requirement for restriction cannot be sustained. The examiner held that the inventions defined by claim groups I and III are directed to "subcombinations useable together." This is clearly erroneous, since, as only one example, claim 1 in group I is directed to an oral adapter **comprising** an oral insert having a passage therein, comprising an insertion portion to be inserted into a person's mouth...", while claim 19 in group III is directed a head appliance **comprising** "a mouthpiece comprising an insertion portion to be inserted in a person's mouth ... ." If devices as defined by these claims were used together, there would be two elements inserted into the person's mouth, and by disclosure, there are not. It appears that, at best claim groups I and III are directed to inventions having the relationship of subcombination-combination. The examiner has not explained how or why the inventions of groups I and III are patentably distinct considering that they are directed to inventions related as subcombination-combination.

The examiner's restriction between the claims of claim groups II and III as drawn to two subcombinations useable together is also clearly erroneous because it neglects the fact that claim 20, from group III, is directed to the combination of the group II nasal seal with the group I oral adapter. Therefore, claim 20 is a combination including the nasal seal, and so is not a subcombination useable with the nasal seal. On similar reasoning, claim groups II and IV are not drawn to two subcombinations useable together, because claim group IV includes claim 22

which in turn includes a nasal seal.

The restriction requirement between claim groups I and IV is clearly erroneous. Claim group IV includes claim 22 which is directed to the combination of a respirator and a head appliance according to claim 20, which head appliance includes both a nasal seal, and the oral adapter of claim 1 (a member of claim group I). Yet the examiner held that claim groups I and IV were related as subcombinations useable together. Clearly, claim 22 is a combination claim that includes the subcombination of claim 1, and is a claim to a device that uses the subcombination of claim 1, not a device which is useable with the subcombination defined by claim 1.

The examiner held that the method of use claims in claim group V, were patentably distinct from the apparatus of claim group I because the apparatus could be used to treat problems other than sleep apnea, such as labored breathing. In other words, the examiner has held that performance of identical method steps such as, for example, inserting an insertion portion of an oral insert into a person's mouth and then applying an elastic sealing element on the person's mouth would be capable of supporting a first patent if one did this to treat the symptom's of sleep apnea, and would also be capable of supporting a second patent if one did this to treat a symptom such as labored breathing. In the opinion of the undersigned, the examiner has not demonstrated that the apparatus of claim 1 is useable in a process that is **materially different in a patentable way** from the process recited in claim 24.

The examiner held that the claims in claim groups II and V were distinct as being drawn to subcombination useable together. This is clearly erroneous; the claims in claim group V are drawn to a process, not to an apparatus. For the same reason, the examiner's holding that the claims in claim groups III and V and the claims in claim groups IV and V are distinct as being drawn to subcombinations useable together are also clearly erroneous.

Claims in groups III and IV were restricted as being directed to subcombinations useable together. But claim 22 from claim group IV includes the device of claim 20 from claim group III. Therefore, claim 22 is directed to a device which uses the invention of claim 20, not to a device which is useable with the device of claim 20.

On the above analysis, only the examiner's holding that the claims in claim groups I and II are directed to distinct inventions that are subcombinations useable together is arguably correct. However, on the facts of this case, it does not appear to the undersigned that it would be burdensome for the examiner to examine both claim groupings together, because if group I were examined, the claims of groups III-V would also have to be examined in accordance with the analysis set forth above. And the group II invention is part of the inventions recited in claim groups III and IV; see, for example claims 20 and 21 from claim group III and claim 22 from claim group IV. Coupled with the fact that claims in claim groups I and II have already been searched and examined, it appears that there would be no serious burden in examining the claims of group II with the rest of the pending claims.

Accordingly, this application is being referred to the Supervisory Patent Examiner of Art Unit 3743 instructions to forward the application to the examiner for an action vacating the outstanding Office action in favor of an action not inconsistent with this decision.

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Frank S. Rosenberg
18 Echo Hill Lane
Moraga, CA 94556

#6

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TECHNOLOGY CENTER 2100

Paper No. 6

Burt Magen
VIERRA MAGEN MARCUS HARMON &
DENIRO LLP
Intellectual Property Law
685 Market Street, Suite 540
San Francisco, CA 94105

In re Application of:
Reijerse
Application No. 10/106,873
Filed: March 26, 2002
For: KNOWLEDGE DISCOVERY FROM DATA SETS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

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.**

There is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED.**

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews
for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software,
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Burt Magen
VIERRA MAGEN MARCUS HARMON & DENIRO LLP
685 Market Street
Suite 540
San Francisco, CA 94105-4206

MAILED

MAR 12 2005

Technology Center 2100

In re Application of:
Fidel REIJERSE, et al.
Application No. 10/106,873
Filed: March 26, 2002
For: KNOWLEDGE DISCOVERY FROM DATA SETS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed February 22, 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.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Fidel Reijerse
Intellidat Corporation
3100 Waldheim Drive
Port Huron, MI 48060

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OFFICE OF PETITIONS

Foley and Lardner, LLP
Suite 500
3000 K Street, NW
Washington, DC 20007

In re Application of
Wladyslaw A. Budzynski et al.
Application No. 10/106,876
Filed: March 27, 2002
Attorney Docket No. 042881-0176

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 17, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michele M. Simkin on behalf of all attorneys of record who are associated with customer No. 22428. All attorneys/agents associated with the Customer Number 22428 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 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 signing inventor. A courtesy copy of this decision is being mailed to the address noted on the request. However, if the person named on the request desires to receive future correspondence regarding this file, the appropriate documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Wladyslaw A. Budzynski
783 Butterworth Drive
Edmonton, Alberta
CANADA T6R 2P6

cc: Iver P. Cooper
Browdy and Neimark
Suite 300, 624 9th Street, NW
Washington, DC 20001-5303

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/106,876	03/27/2002	Wladyslaw A. Budzynski	042881-0176

CONFIRMATION NO. 4493

POWER OF ATTORNEY NOTICE

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Date Mailed: 07/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/17/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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OFFICE OF PETITIONS

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Patent No. 7,419,958	:	DECISION DISMISSING
Buechler et al.	:	REQUEST FOR
Application No. 10/106,901	:	RECONSIDERATION OF
Issue Date: September 2, 2008	:	PATENT TERM ADJUSTMENT
Filed: March 26, 2002	:	UNDER 37 CFR § 1.705(d)
Attorney Docket No.: 31580-710.201	:	AND CONCURRENTLY FILED
Title of Invention: METHOD OF ATTENUATING REACTIONS TO SKIN IRRITANTS	:	PETITION UNDER 37 CFR § 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT under 37 C.F.R. § 1.705(d)," filed on October 31, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from eight hundred and eighty-eight (888) days to nine hundred and twenty-two (922) days.

This is also a decision on the concurrently filed petition pursuant to 37 C.F.R. § 1.183, requesting the waiver of "the Rules."[1]

The request for reconsideration of patent term adjustment is **DISMISSED**.

The petition pursuant to 37 C.F.R. § 1.183 is **DISMISSED**.

1 Petition, page 4.

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[2] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (1) PATENT TERM GUARANTEES. –
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
>
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
>
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

---

[2] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to –

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. –

(A) IN GENERAL. – To the extent that 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.

The implementing regulation, **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;

(b) 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[3]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in

---

[3] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
(5) Any delay in the processing of the application by the Office that was requested by the applicant.

an international application and ending on the date a patent was issued, but not including the sum of the following periods[4]:

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). 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. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

37 C.F.R. § 1.183 sets forth, *in toto*:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other

---

[4] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

OPINION

Regarding the petition pursuant to Rule 1.705(d):

On September 2, 2008, the application matured into U.S. Patent No. 7,419,958, with a revised patent term adjustment of 888 days.

On October 31, 2008, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. Patentees argues, citing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008)[1], that it is entitled to a total patent term adjustment of 922 days, which according to patentees is the sum of the 1256 days of patent term adjustment due to exceeding the three year pendency plus the non-overlapping 33 days due to USPTO delay in prosecution, minus the 367[5] days of applicant delay.

The instant patent issued 3 years and 1256 days after its filing date. (No request for continued examination was filed in this application). However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the period of delay of 1256 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 162 days attributable to grounds

[5] The total period of applicant delay is 368 days, not 367 days. Patentees did not timely file an application for patent term adjustment under 1.704(b) challenging this determination. It is noted that patentees incorrectly note the period of applicant delay associated with their response filed August 4, 2004 as 34 days, when it is 35 days.

specified in § 1.702(a)(1), and (2). Thus, at issuance, only an additional period of adjustment of 1094 days was entered for a total of 1256 days.

It follows that the proper period of adjustment for Office delay was properly calculated to be 1256 days.

In view thereof, the patent issued with a revised patent term adjustment of 888 (1256 - 162) days.

Patentees argue that the determination of 888 days is in error in that pursuant to 35 U.S.C. § 154(b) the Office failed to issue a patent within three years of the actual filing date of the above-referenced application in accordance with 37 CFR § 1.702(b) **and** failed to take certain action within the time frames specified in 37 CFR § 1.702(a).

Specifically, patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 1256 days.[6] This 1256 day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on March 26, 2002, and the patent having not issued until September 2, 2008, three years and 1256 days later. As previously noted, no request for continued examination was filed in this application.

In short, patentees do not agree with the Office's determination that the period of delay of 1256 days attributable to the delay in the issuance of the patent overlaps with the total adjustment of 162 days attributable to grounds specified in § 1.702(a)(2).

Preliminarily, it is noted that patentees have incorrectly accounted for 34 days of applicant delay attributable to grounds specified in § 1.704(b). Pursuant to this section of the rules, 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, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months

[6] See petition, page 2.

after the date of mailing or transmission of the Office communication notifying the applicant of the rejection and ending on the date the reply was filed. A final Office action was mailed on March 31, 2004, and an after-final amendment was not received until August 4, 2004, which is three months and 35 days after the mailing of the Office communication. The 3 month date is June 30, 2004, not July 1, 2004. This point is not at issue as any challenge to this calculation should have been made on application for patent term adjustment under 37 CFR 1.705(b), and the period for filing such a paper ended with the payment of the issue fee on June 26, 2008.

In their calculation of Office delay, patentees have specifically accounted for the 33 days of Office delay attributable to grounds specified in § 1.702(a)(2). With respect to the 128 days of Office delay in mailing the non-final Office action on November 14, 2005, and the 1 days of Office delay in mailing the non-final Office action on March 22, 2007[7], patentees have treated these periods as overlapping with the three-year pendency period, given its start on March 27, 2005.

Patentees maintain that the total patent term adjustment is the sum of the period of Three Years Delay (1256 days) and the period of other Examination Delay (33 days) less the period of Applicant Delay (367 - which should be 368 days). Implicitly patentees maintain that only the 128 day and 1 day periods of Office delay overlap with the 1256 days.

As such, patentees assert entitlement to a patent term adjustment of 922 days (1256 + 33 reduced by 367).

The Office agrees that the patent issued 3 years and 1256 days after its filing date. The Office agrees that the actions detailed above were not taken within the specified timeframes. The Office considers the entries of periods of adjustment of 162 days for Office delay and 368 days for Applicant delay correct. At issue is whether the period of delay of 1256 days attributable to the delay in the issuance of the patent overlaps

[7] Pursuant to 37 C.F.R. § 1.702(a)(2), the Office is required to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed. A response to a restriction requirement was received on March 9, 2005, and a non-final Office action was not mailed until November 14, 2005, which is four months and 128 days after the reply was filed. Similarly, an after-final amendment was received on November 21, 2006, and a non-final Office action was not mailed until March 22, 2007, which is four months and 1 day after the reply was filed.

with the periods of adjustment totalling 162 (128 + 1 + 33) days (attributable to grounds specified in § 1.702(a)(2).

The Office maintains that the 1256 days attributable to the delay in issuance of the patent overlaps with the 162 days attributable to grounds specified in § 1.702(a)(2). 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[8]

As such, the period for over 3 year pendency does not as argued by patentees overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Patentees are incorrect in treating the relevant period as starting on March 26, 2005, the date that is 3 years after the actual 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 26, 2002 to September 2, 2008. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 888 days of patent term adjustment were accorded since the period of delay of 1256 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 162 days attributable to grounds specified in § 1.702(a)(2). Accordingly, at issuance, the Office properly entered 1094 days {1256 - (33 + 128 + 1 = 162) days} additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

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[8] 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 888 days. The patent properly issued with this indication contained thereon, and no further action is required.

Regarding the petition pursuant to Rule 1.183:

A grantable petition under Rule 1.183 requires the establishment of an extraordinary situation, such that justice requires the waiver or suspension of a particular Rule.

Patentees have not indicated precisely which "Rules" they seek waiver of, however it appears that they see to waive the requirements of Rule 1.703(f), since this Rule indicates "the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed."

Patentees has asserted the existence of an "extraordinary situation," but this assertion has not been established. Patentees have not explained what is extraordinary about Patentees who hold a patent which took more than three years to obtain. Moreover, patentees have not asserted, *much less established*, that justice requires the waiver of Rule 1.703(f).

Assuming arguendo that patentees have established the existence of an extraordinary situation, such that justice requires the waiver of Rule 1.703(f), this request cannot be granted. To grant patentees the relief which they have requested would necessitate the concurrent waiver of 35 U.S.C. § 154(b)(2)(A), as this statute explicitly states "the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed." The Office reminds patentees that any request to waive or suspend the requirements of statute pursuant to 37 CFR §1.183 is beyond the discretion or the authority of the Office.

CONCLUSION

Both the $200 fee set forth in 37 CFR § 1.18(e) and the $400 fee set forth in 37 CFR § 1.17(f) will be charged to patentees' Deposit Account in due course. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

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
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SCHWEGMAN, LUNDBERG, WOESSNER
& KLUTH
1600 TCF TOWER
121 SOUTH EIGHT STREET
MINNEAPOLIS MN 55402

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FEB 24 2006

OFFICE OF PETITIONS

In re Application of :
Joseph E. Geusic et al :
Application No. 10/106,915 : ON PETITION
Filed: March 25, 2002 :
Attorney Docket No. 1303.032US1 :

This is a decision on the petition, filed February 22, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 15, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The 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 2813 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:
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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Alexandria, VA 22313-1450
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DECISION ON PETITION

In re Application of
Barbara MROCZKOWSKI et al
Serial No. 10/106,938
Filed: March 25, 2002
For: CATALYTIC DOMAINS OF THE HUMAN HEPATOCYTE GROWTH FACTOR RECEPTOR TYROSINE KINASE, AND MATERIALS AND METHODS FOR IDENTIFICATION OF INHIBITORS THEREOF

November 9, 2004

This is a decision on the request for acceptance of color drawings under 37 C.F.R. ээ 1.84(b) filed March 25, 2002.

The petition has been reviewed and is found to be in compliance with the requirements as set forth in 37 CFR ээ1.84 (a)(2) and b (2). Specifically, three sets of color drawings and a statement as to why the color drawings are necessary have been provided as required by 37 C.F.R. §§1.84(a)(2) and (b)(1). See MPEP 608.01(f). The specification contains a statement to the effect that copies of color drawings will be provided upon request and payment of required fee.

Accordingly,
PETITION IS GRANTED.

Ponnathapura N. Achutamurthy
Supervisory patent Examiner
Art Unit 1652

SaraNel D. Salinas
Agouron Phamaceuticals, Inc./A Pfiser Company.
Patent Department.
10777 Science Center Drive
San Diego, CA 92121

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Paper No. 10

MYERS BIGEL SIBLEY & SAJOVEC
P.O. BOX 37428
RALEIGH NC 27627

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SEP 12 2003

OFFICE OF PETITIONS
ON PETITION

In re Application of
Robert W. Johnson
Application No. 10/106,943
Filed: March 25, 2002
Attorney Docket No. 9060-195

This is a decision on the petition, filed by facsimile transmission on September 11, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 5, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2838 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/24/07

TO SPE OF : ART UNIT 2132 Gilberto Barron Jr :

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/106960 Patent No.: 7017096

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ Approved	All changes apply.
☐ Approved in Part	Specify below which changes do not apply.
☐ Denied	State the reasons for denial below.

Comments: _____

JACQUES LOUIS-JACQUES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2132
Art Unit

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INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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FEB 15 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
Pere Obrador et al.
Application No. 10/106,973
Filed: March 25, 2002
Attorney Docket No. 10017907-1

This is a decision on the petition filed October 18, 2005 to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

This application became abandoned July 9, 2005 for failure to timely pay the issue fee in response to the Notice of Allowance mailed April 8, 2005. Accordingly, a Notice of Abandonment was mailed September 19, 2005.

Petitioner claims that the Notice of Allowance mailed April 8, 2005 was mailed to an incorrect address and thus never received. Petitioner argues that a search of the file jacket and docket records, wherein receipt of the Notice of Allowance mailed April 8, 2005 would have been filed had it been received, was conducted and provides a copy of the docket report to show that the Notice was not received.

The file record discloses that in fact a change of correspondence address meant for an unrelated application was improperly filed in the file of the instant application and thus, the Notice was mailed to an incorrect address.

In that the statement from the petitioner and the exhibit from the docket record and file jacket for the instant matter show no entry indicating receipt of the Notice mailed April 8, 2005 and in that it is clear that the correspondence address for the instant application was improperly changed by the USPTO, it is apparent that the Notice was not received by the petitioner.

The evidence submitted corroborates non-receipt of the Notice of Allowance. Accordingly, the holding of abandonment is withdrawn.

This matter is being referred to the Office of Publications for a re-mailing of the Notice of Allowance after which time the issue fee must be paid.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Jan-10

COMPUTER PACKAGES, INC.
414 HUNGERFORD DRIVE
ROCKVILLE MD 20850

MAILED

JAN 22 2010

OFFICE OF PETITIONS

In re Patent No. 6707753 :
Issue Date: 03/16/2004 :
Application Number: 10/106975 : ON PETITION
Filing Date: 03/25/2002 :
For: LOW POWER DOMINO TREE DECODER :

This is a decision on the petition under 37 CFR 1.378(c), filed July 2, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 16, 2008, for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in paying the maintenance fee 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 in fact unintentional, petitioner should make a reasonable 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 address in the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

HORACE NG
5488 MARVELL LANE
SANTA CLARA CA 95054

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

JUL 24 2009

OFFICE OF PETITIONS

In re Application of :
Gschwendtner :
Application No. 10/106,981 : ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. N0484.70047US00 :
For: SYNCHRONISE AN AUDIO CURSOR AND A TEXT CURSOR DURING EDITING

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly respond to the final Office action, mailed July 17, 2007, which set an extendable three month period for reply. Applicant submitted an amendment after final on August 31, 2007. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the February 7, 2008 Advisory action. Applicant filed a notice of appeal and a petition for a one month extension of time on February 13, 2008. This application became abandoned on October 18, 2007. A Notice of Abandonment was mailed on December 12, 2008.

Applicants have submitted a RCE and required $810.00 fee and an amendment as the submission in reply to the July 17, 2007 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 17, 2007 final Office action, and the $1,620.00 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.

With respect to finances, the one month extension of time and notice of appeal, both filed on February 13, 2008, and the appeal brief, filed on April 10, 2008, were filed after the application was abandoned. Therefore, deposit account 14-1270 will be refunded $1,140.00 ($120 extension of time fee + $510.00 notice of appeal fee + $510.00 appeal brief fee).

The revocation/power of attorney/change of correspondence address filed on June 19, 2009 has been entered and made of record. Please find enclosed a notice reflecting the requested changes.

This application is being referred to Technology Center AU 2626 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 pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/106,981	03/26/2002	Wolfgang Gschwendtner	AT 010023

CONFIRMATION NO. 7876

POA ACCEPTANCE LETTER

23628
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Date Mailed: 07/20/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/19/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/swbrantley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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22 CENTURY HILL DRIVE
SUITE 302
LATHAM NY 12110

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FEB 09 2007

OFFICE OF PETITIONS

In re Application of :
Coyle :
Application No. 10/106,998 : DECISION ON PETITION
Filed: March 26, 2002 : TO MAKE SPECIAL UNDER
Attorney Docket No. COYL-3123 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 12, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of applicant's birth certificate indicating applicant is 65 years of age, or more. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Jefferey Harold at 571-272-7519, or to the undersigned at 571-272-7099.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3626 for action on the merits commensurate with this decision.

David Bucci

Petitions Examiner
Office of Petitions

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MERLE W. RICHMAN, III
P.O. BOX 3333
LA JOLLA, CA 92038

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MAR 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Meng	:	DECISION ON PETITION
Application No. 10/107,003	:	
Filed: March 25, 2002	:	
Atty. Dkt. No.: SVL920010046US2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned May 1, 2005 for failure to timely reply to the non-final Office action mailed January 31, 2005. The Notice set a three (3) month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed October 6, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application will be forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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5775 MOREHOUSE DR.
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OFFICE OF PETITIONS

In re Application of
Joseph P. Odenwalder
Application No. 10/107,005
Filed: March 25, 2002
Attorney Docket No. 010319

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed April 26, 2007 under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on May 29, 2006, for failure to timely a response to the non-Final Office Action mailed February 28, 2006. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on April 3, 2007.

Petitioner asserts that a proper response in the form of an amendment with a one month extension of time was filed on June 30, 2006 and that while the extension of time appears to have been separated from the response, petitioner argues that the USPTO was provided with a blanket authorization to charge all deficient fees to their deposit account with the application transmittal.

A search of the application file and the USPTO records reveals that in fact, an authorization was in fact filed with the application transmittal.

Accordingly, the Notice of Abandonment mailed April 3, 2007 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged. However in accordance with the transmittal authorization, the fee for a one month extension of time is being charged to deposit account no. 17-0026 to make the response filed June 30, 2006 timely.

This matter is being referred to Technology Center 2616 for treatment of the response filed June 30, 2006 (June 27, 2006 certificate of mail date).

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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UNITED STATES DEPARTMENT OF COMMERCE
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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
10/107,006	03/26/2002	2636	435	RAN1	2	10	1

CONFIRMATION NO. 2710

Daryl K. Neff
4 Eugene Circle
Lincoln Park, NJ 07035

CORRECTED FILING RECEIPT

OC000000014667850

Date Mailed: 12/03/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Ryan A. Neff, Lincoln Park, NJ;

Power of Attorney:

Daryl Neff–38253

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/15/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/107,006

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

ON-BOARD VEHICLE SYSTEM AND METHOD FOR RECEIVING AND INDICATING DRIVING-RELATED SIGNALS

Preliminary Class

340

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON NJ 08543-5312

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SEP 25 2006
OFFICE OF PETITIONS

In re Application of :
Ramaswamy, et al. :
Application No. 10/107,025 : ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. PU010107 :
For: HIERARCHICAL BLOCK CODING
FOR A PACKET-BASED
COMMUNICATIONS SYSTEM

This is a decision on the petition, filed May 16, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the September 20, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on December 21, 2005. A Notice of Abandonment was mailed on April 14, 2006

Applicants have submitted an amendment in reply to the September 20, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 20, 2005 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2133 for consideration of the amendment filed on May 16, 2006.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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1/15/03

Paper No. 08

Robert F. Zielinski
Wolf, Block, Schorr and Solis-Cohen LLP
1650 Arch Street, 22nd Floor
Philadelphia PA 19103-2097

JAN 16 2003

In re Application of :
Melvin A. Dayan :
Application No. 10/107,034 :
Filed: March 27, 2002 :
Attorney Docket No.: ROADM 3.0-001 CIP :

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.102(d), filed November 21, 2002, and a copy refiled on January 03, 2003, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item II: Infringement.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, Section II, must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(I) and a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition satisfies the above-listed requirements for special status.

Accordingly, the petition is **granted**.

The application is being forwarded to the examiner for expedited prosecution.

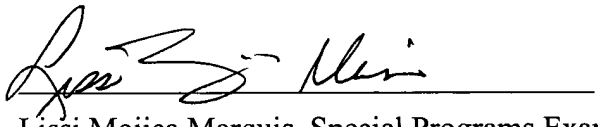
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.



Lissi Mojica Marquis, Special Programs Examiner

Technology Center 2800

Semiconductors, Electrical and Optical

Systems and Components

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101 FEDERAL STREET
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application
Paul Johnson et al.
Application No. 10/107,036
Filed: March 27, 2002
Attorney Docket No. **08582/010002**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705 filed September 16, 2009. Applicant requests that the determination of patent term adjustment be corrected from 447 days to 749 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, 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 patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 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 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot 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 such a request as premature.

With respect to the over 3 year calculation, rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred forty-five (445) days including two hundred eight days for applicant delay. A copy of the updated PALM screen, showing the correct determination, is enclosed.

The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

On June 18, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 447 days. Applicants acknowledge a period of adjustment of 653 days of PTO delay but argue that an additional 2 days of Applicant delay should be accorded for the filing on January 25, 2006 of a response to the final Office Action mailed on September 21, 2005. The three-month deadline for response to the Office Action was December 21, 2005 and a Request for Continued Examination was received by the Office on January 25, 2006, with a certificate of mail dated January 23, 2006, not January 23, 2006, thus a delay of 35 days, rather than the 33 days indicated on the Patent Term Adjustment should be accorded.

A review of the record reveals that the initial determination of patent term adjustment of 447 days of applicant delay is incorrect. In this instance, the filing of the response on January 25, 2006 is considered a failure to engage under 1.704(c)(8).

[1] PALM records indicate that the issue fee was paid on September 16, 2009.

37 CFR 1.704(c)(8) provides that:

> the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

The period of reduction pursuant to 37 CFR 1.704(c)(8) for filing the response is 35 days, counting the number of days in the period beginning December 21, 2005 and ending on January 25, 2006, the date the response to the September 21, 2005 office action was filed. Accordingly, an additional period of reduction of 2 days is being entered.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance is FOUR HUNDRED FORTY-FIVE days (653 days of Office delay reduced by 208 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) which has been charged to deposit account no. 03-2095. No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Revised PALM Screen

PTA Calculations for Application: 10/107036			
Application Filing Date:	03/27/2002	PTO Delay (PTO):	653
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	206
Post-Issue Petitions:	0	Total PTA (days):	445
PTO Delay Adjustment:	-2		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
105	05/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		2	
92	06/18/2009	MAIL NOTICE OF ALLOWANCE			
91	06/16/2009	ISSUE REVISION COMPLETED			
90	06/16/2009	DOCUMENT VERIFICATION			
89	06/16/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
88	06/16/2009	EXAMINER'S AMENDMENT COMMUNICATION			
87	06/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
86	11/04/2002	REFERENCE CAPTURE ON IDS			
85	07/22/2002	REFERENCE CAPTURE ON IDS			
84	07/22/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
83	06/15/2009	NOTICE OF ALLOWABILITY			
82	06/11/2009	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
78	05/13/2009	DATE FORWARDED TO EXAMINER			
77	05/11/2009	AMENDMENT AFTER FINAL REJECTION		61	73
76	05/11/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
75	12/12/2008	ELECTRONIC REVIEW			
74	12/12/2008	EMAIL NOTIFICATION			
73	12/11/2008	MAIL FINAL REJECTION (PTOL - 326)			
72	12/08/2008	FINAL REJECTION			
71	09/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
70	09/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	68

69	10/06/2008	DATE FORWARDED TO EXAMINER			
68	09/10/2008	RESPONSE AFTER NON-FINAL ACTION		26	63
67	09/10/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
66	09/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	05/20/2008	ELECTRONIC REVIEW			
64	05/18/2008	EMAIL NOTIFICATION			
63	05/15/2008	MAIL NON-FINAL REJECTION			
62	05/12/2008	NON-FINAL REJECTION			
61	03/02/2008	DATE FORWARDED TO EXAMINER			
60	02/21/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
59	03/02/2008	DATE FORWARDED TO EXAMINER			
58	02/21/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
57	03/02/2008	DISPOSAL FOR A RCE / CPA / R129			
56	02/21/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
55	06/23/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	06/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	11/22/2007	ELECTRONIC REVIEW			
52	11/21/2007	EMAIL NOTIFICATION			
51	11/21/2007	MAIL FINAL REJECTION (PTOL - 326)	380		46
50	07/22/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	07/22/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	09/18/2006	FINAL REJECTION			
47	07/14/2006	DATE FORWARDED TO EXAMINER			
46	07/06/2006	RESPONSE AFTER NON-FINAL ACTION		2	45
45	04/04/2006	MAIL NON-FINAL REJECTION			
44	04/03/2006	NON-FINAL REJECTION			
43	02/01/2006	DATE FORWARDED TO EXAMINER			
42	01/23/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
41	02/01/2006	DATE FORWARDED TO EXAMINER			
40	01/23/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		33	32

39	02/01/2006	DISPOSAL FOR A RCE / CPA / R129			
38	01/23/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	01/25/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
36	12/13/2005	MAIL ADVISORY ACTION (PTOL - 303)			
35	12/12/2005	ADVISORY ACTION (PTOL-303)			
34	11/29/2005	DATE FORWARDED TO EXAMINER			
33	11/16/2005	AMENDMENT AFTER FINAL REJECTION			
32	09/21/2005	MAIL FINAL REJECTION (PTOL - 326)			
31	09/19/2005	FINAL REJECTION			
30	07/07/2005	DATE FORWARDED TO EXAMINER			
29	06/27/2005	RESPONSE AFTER NON-FINAL ACTION		16	28
28	03/11/2005	MAIL NON-FINAL REJECTION			
27	03/07/2005	NON-FINAL REJECTION			
26.7	11/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	24
26	11/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	12/09/2004	DATE FORWARDED TO EXAMINER			
24	11/18/2004	RESPONSE AFTER NON-FINAL ACTION		36	21
23	11/18/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	11/18/2004	WORKFLOW INCOMING AMENDMENT IFW			
21	07/13/2004	MAIL NON-FINAL REJECTION			
20	07/12/2004	NON-FINAL REJECTION			
19.7	05/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		32	17
19	05/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	05/03/2004	DATE FORWARDED TO EXAMINER			
17	04/26/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
16	04/26/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
15	04/26/2004	WORKFLOW INCOMING AMENDMENT IFW			
14	02/24/2004	MAIL RESTRICTION REQUIREMENT	273		-1
13	02/23/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
12	10/15/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11.7	11/04/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

11	11/04/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	09/27/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	08/20/2002	APPLICATION DISPATCHED FROM OIPE			
7	08/19/2002	APPLICATION IS NOW COMPLETE			
6	07/16/2002	ADDITIONAL APPLICATION FILING FEES			
5	07/16/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	05/10/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	04/12/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	04/10/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/27/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Suite 800
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OFFICE OF PETITIONS

In re Application of
Nishigaki
Application No. 10/107,038
Patent No. 6,869,197
Filed: March 28, 2002
Attorney Docket No. Q69332

: DECISION GRANTING PETITION

This decision is in response to applicants' REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" timely[1] filed on April 13, 2004 requesting that the Office adjust the PTA determination by a period of either 12 additional days or 24 additional days.

Applicants request for reconsideration is **GRANTED to the extent herein indicated.** The Office will adjust the PTA calculation at the time of the issuance of the patent from an amount of two hundred and forty-nine days to an amount of two hundred and sixty-one days. The Office will *sua sponte* issue a certificate of correction reflecting this decision.

Applicant asserts that at the time of the notice of allowance the Office improperly deducted twelve days from the patent term adjustment as being over three months to respond to the Office action. Applicant asserts that the Office re-mailed the Office action and restarted the period of response to begin on August 26, 2003 rather that original office action date of August 14, 2003. Applicant asserts that because the clock was restarted from the date of August 26, 2003 applicants had until November 26, 2003 to respond without any applicant delay being assessed against applicants. Applicants further assert that the first mailed Office action was incomplete and therefore the clock should have continued to run pursuant to 37 CFR 1.702(a)(1) until the re-mail on August 12, 2003.

Applicants arguments are partially persuasive. Specifically, the Office agrees with applicant's argument that the applicant did not fail to engage in reasonable efforts to conclude prosecution of the application by responding more than three months after the mailed Office action of August 26, 2003.. See 37 CFR 1.704(b). Accordingly, the 12 days of applicant delay is not correct. Applicant had no failures to engage in reasonable efforts to conclude prosecution of the application. However, applicant's argument that the Office should have been assessed 12 additional days of PTA for the Office's failure to initially act upon the application until August 26 2003 is not persuasive because the Office's initial Office action was sufficient within the meaning of 35 U.S.C. 132 to be considered an action that stops the Office's fourteen month clock. See 37 CFR 1.702(a)(1). Accordingly, the seventy-days (78) days of Office day pursuant to 37 CFR

[1]Issue fee paid on May 14, 2005

1.702(a)(1) is correct. Accordingly, the correct amount of PTA at the time of the issuance of the patent is two hundred and sixty-one (78 + 183=261) days.[2]

After the mailing of this decision, the patented application will be forwarded to the certificate of correction branch for the issuance of a certificate of correction.

The Office acknowledges receipt of the $200.00 for the request for reconsideration fee. No additional fees are required by the Office.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner for Patent Examination Policy

cc: Draft copy of certificate of correction
Adjusted Pair Calculation

[2]After the mailing of the notice of allowance the Office accrued one hundred and eighty-three (183) additional days of PTA for failing to issue the application within four months of the payment of the issue fee and other requirements being satisfied.

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WASHINGTON DC 20005-3315

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Masakazu Hattori et al :
Application No. 10/107,066 :
Filed: March 28, 2002 :
Attorney Docket No. 4329.2797-00 :

This is a decision on the petition, filed October 21, 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 should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2175 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).

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)
6802228	2004-10-12	10107068	2002-03-28	

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	//Dong Liang//	Date (YYYY-MM-DD)	2008-12-16
Name	Dong Liang		

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. 6802228
Issue Date: October 12,2004
Application No. 10107068
Filed: March 28,2002
Attorney Docket No. 2308-100

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 16,2008 ,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 December 16,2008 . 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:04192006

DATE : April 19, 2006

TO SPE OF : ART UNIT 1617

SUBJECT : Request for Certificate of Correction on Patent No.: 6,958,324 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: Sreenivasan Padmanabhan **Art Unit** 1617

1617

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MAIL

JUL 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

In re application of:
Ji Li, et al.
Application No. 10/107,085
Filed: March 25, 2002
For: OPTICAL TRANSCEIVER USING HETERODYNE DETECTION AND A TRANSMITTED REFERENCE CLOCK

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on June 15, 2005.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents associated with Customer Number 00758 have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Cora Fedomock
Berkeley Law & Technology Group, LLC
1758-114th Ave. SE, Ste. 110
Bellevue, WA 98004

UNITED STATES PATENT AND TRADEMARK OFFICE

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MEYERTONS, HOOD, KIVLIN,
KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

COPY MAILED

JUL 11 2007

OFFICE OF PETITIONS

In re Application of:
Li et al.
Application No. 10/107085
Filing or 371(c) Date: 03/25/2002
Title of Invention:
OPTICAL TRANSCEIVER USING HETERODYNE DETECTION AND A TRANSMITTED REFERENCE CLOCK

DECISION GRANTING
PETITION UNDER
37 CFR 1.47(a)

This Decision is in response to the Petition Under 37 CFR 1.47(a)," filed May 11, 2007, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). 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 inventors, Peter H. Chang, Ting Yee and Tin Vo, refuse 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.

The application file is being referred to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may 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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JUL 11 2007

OFFICE OF PETITIONS

MR. TIN VO
1178 RAPOSA DRIVE
SAN JOSE, CA 95121-2544

In re Application of:
Li et al.
Application No. 10/107085
Filing or 371(c) Date: 03/25/2002
Title of Invention:
OPTICAL TRANSCEIVER USING HETERODYNE DETECTION AND A TRANSMITTED REFERENCE CLOCK

LETTER

Dear Mr. VO:

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: MEYERTONS, HOOD, KIVLIN,
KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

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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MR. TING K. YEE
384 DOLPHIN ISLE
FOSTER CITY, CA 95121-1453

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JUL 11 2007

OFFICE OF PETITIONS

In re Application of:
Li et al.
Application No. 10/107085
Filing or 371(c) Date: 03/25/2002
Title of Invention:
OPTICAL TRANSCEIVER USING HETERODYNE DETECTION AND A TRANSMITTED REFERENCE CLOCK

LETTER

Dear Mr. YEE:

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: MEYERTONS, HOOD, KIVLIN,
KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MR. PETER H. CHANG
838 BETLIN AVENUE
CUPERTINO, CA 95104

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JUL 11 2007

OFFICE OF PETITIONS

In re Application of:
Li et al.
Application No. 10/107085
Filing or 371(c) Date: 03/25/2002
Title of Invention:
OPTICAL TRANSCEIVER USING HETERODYNE DETECTION AND A TRANSMITTED REFERENCE CLOCK

LETTER

Dear Mr. CHANG:

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: MEYERTONS, HOOD, KIVLIN,
KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

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Hahn and Moodley LLP
Suite 180
800 W. El Camino Real
Mountain View, CA 94040

MAILED

JAN 27 2006

TECHNOLOGY CENTER 2100

In re Application of: Patel, et al.
Application No. 10/107,091
Filed: March 25, 2002
For: HARDWARE-TRANSLATOR-BASED CUSTOM METHOD INVOCATION SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P.§708.02(II): INFRINGEMENT

This is a decision on the petition, filed December 27, 2005, under 37 C.F.R. 1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. 1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. 1.17(h) and a statement under 37 C.F.R. 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that: (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed December 27, 2005 includes all of the requirements set forth above and, therefore, the petition is **GRANTED**.

The application is being forwarded to the examiner to be advanced out of turn for examination in accordance with the procedures set forth in M.P.E.P. §708.02 and 37 C.F.R. 1.102.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3595

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Paper No. 12

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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OFFICE OF PETITIONS
ON PETITION

In re Application of
Joseph Fjelstad et al
Application No. 10/107,094
Filed: March 26, 2002
Attorney Docket No. TESSERA 3.0-078 CIP CONT

This is a decision on the petition, filed November 25, 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 October 22, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2815 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 10-02

Paper No. 9

ALSTON & BIRD LLP
PIONEER HI-BRED INTERNATIONAL, INC.
BANK OF AMERICA PLAZA
101 SOUTH TYRON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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OCT 2 2 2002

OFFICE OF PETITIONS

In re Application of :
Karlovsky et al. :
Application No. 10/107,096 : ON PETITION
Filed: 26 March, 2002 :
Attorney Docket No. 35718/245827 :

This is a decision on the petition under 37 CFR 1.182, filed on 9 September, 2002, to change the order of the names of the inventors.

The petition is **dismissed as moot**.

37 CFR 1.41(a)(1) now defines the inventorship of a non-provisional application as that inventorship set forth in the oath or declaration filed to comply with the requirements of 37 CFR 1.63.

As the application was not filed with an executed oath or declaration, and the executed declaration filed on 16 September, 2002, correctly lists the desired order of inventors, no petition under 37 CFR 1.182 is necessary. The $130.00 petition fee is therefore unnecessary and has not been charged.

The application file is being forwarded to Office of Application Branch Data Input to correct the order of inventorship in accordance with the declaration filed on 16 September, 2002. Thereafter, the application will be forwarded to Initial Patent Examination Division 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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6875345
Issue Date: April 5,2005
Application No. 10107169
Filed: March 28,2002
Attorney Docket No. P391 0002

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 20,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 20,2009 . 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

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JOSEPH DEBENEDICTIS
BACON & THOMAS
4TH FLOOR
625 SLATERS LANE
ALEXANDRIA VA 22314

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FEB 21 2006

OFFICE OF PETITIONS

In re Patent No. 6,953,794 :
Issue Date: October 11, 2005 :
Application No. 10/107,181 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket Number: :
WISC3001DJDB

This is a decision regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 16, 2005.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

This file is being forwarded to the Files Repository.

Patricia Faison-Ball
Senior Petitions Attorney
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
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Paper No. 10

SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN VA 22102

In re Application of 10107206
EBIHARA et al.
[redacted]
Filed: March 28, 2002
Attorney Docket No. YIP0032-US
For: CARBURIZATION TREATMENT METHOD AND CARBURIZATION TREATMENT APPARATUS

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MAY 13 2004
OFFICE OF PETITIONS

DECISION GRANTING PETITION

In re Application of
EBIHARA et al..
Application No. 10/107,206
Filed: March 28, 2002
Attorney Docket No. YIP0033-US
For: CARBURIZATION TREATMENT METHOD

This is a decision on the petition filed both of the above-identified applications on August 29, 2003, which are being treated as petitions under 37 CFR 1.181 to undo the USPTO processing errors in both applications.

The petitions are **granted to the extent noted below**.

Petitioners initially requested in each application on May 23, 2002, a corrected filing receipt, based on the application numbers assigned to their itemized postcard receipts. Petitioners now request that the USPTO re-scan the entire applications, as according to petitioners the USPTO has interleaved various parts of the two files.

Inspection of the contents of the '449 application reveals that the transmittal latter indicates that, as filed: (1) the inventors named are Ebihara, Takahashi, Abukawa, Yokose, and Juryozawa, (2) the title is "Carburization Treatment Method and Carburization Treatment Apparatus, (3) the docket number supplied by applicants for that captioned invention is YIP0032-US, (4) the specification contained 23 pages, 4 sheets drawings, 11 claims (2 independent), and an unexecuted declaration. Inspection of the aforementioned unexecuted declaration reveals that (1) the inventive entity is consistent with the transmittal letter, as is (2) the docket number (YIP0032-US), (3) applicants claimed benefit of Japanese priority document 2001-169635 filed June 5, 2001, and the file shows that ribboned document is in the file.

Inspection of the contents of the '206 application reveals that the transmittal latter indicates that, as filed: (1) the inventors named are Ebihara, Takahashi, Abukawa, Yokose, and Juryozawa, (2) the title is "Carburization Treatment Method, (3) the docket number supplied by applicants for that captioned invention is YIP0033-US, (4) the specification contained 21 pages, 4 sheets drawings, 7 claims (1 independent), and an unexecuted declaration. Inspection of the

aforementioned unexecuted declaration reveals that (1) the inventive entity is consistent with the transmittal letter, as is (2) the docket number (YIP0033-US), (3) that applicants claimed benefit of Japanese priority document 2001-169636 filed June 5, 2001, and the file shows that ribboned document is in the file.

Therefore what inspection of the copy of the itemized postcard receipt, as well as the filing receipt shows for each application is that the USPTO staff inadvertently (1) cross applied the labels for each of the above-identified applications to the postcard receipts, (2) and also cross applied the docket numbers, and priority application numbers. This, in turn caused applicants to, *inter alia*, file the executed declarations captioned for the incorrect applications, but other wise properly identifying the correct specification by its title, docket number, and corresponding priority document. The previously issued corrected filing receipts in fact exacerbated the errors.

However, it is neither necessary nor desirable to re-scan the entire contents of each application to remedy the situation. The USPTO bibliographic records of the files have been corrected to show that the docket number of the '449 application is YIP0032-US, its title is "Carburization Treatment Method and Carburization treatment Apparatus," that priority is claimed of the 169635 prior Japanese application; that the docket number of the '206 application is YIP0033-US, its title is "Carburization treatment method," that priority is therein claimed of the 169636 prior Japanese application and the declarations filed on have been placed in the file of the specification which each actually executed. That is while the declaration filed May 29, 2003 was placed in and captioned for application No. 10/107,449 due to the USPTO error, it also correctly identified (1) the title, (2) docket number, and (3) the corresponding Japanese priority document of the '206 application. As such, it has been placed in the '206 file by the undersigned. See MPEP 724.05III. Likewise, while the declaration filed May 28, 2003 was placed in and captioned for application No. 10/107,206 due to the USPTO error, it also correctly identified (1) the title, (2) docket number, and (3) the corresponding Japanese priority document of the "449 application. As such, it has been placed in the '449 file by the undersigned. See MPEP 724.05III.

However, the materials that were scanned in each file as having been present in each file on the date these applications were received at the USPTO were and remain correct. As such, there is nothing to correct by re-scanning.

Lastly, under the circumstances of these cases, and in view of the fact that applicants requested relief from the confusion caused by the USPTO within the period for reply to the restriction requirement in the '449 application, such is, under the circumstances of this case an appropriate reply. The Technology Center is requested to remail the Office action of July 30, 2003, and restart the period for reply in the '449 application. The USPTO regrets the delay in treating the petitions.

TO MINIMIZE FURTHER CONFUSION BETWEEN THE TWO APPLICATIONS, APPLICANTS SHOULD CORRECT THEIR DOCKET AND FILE RECORDS CONSISTENT WITH THIS DECISION. A CORRECTED FILING RECEIPT IS ENCLOSED FOR EACH APPLICATION.

These applications are being returned to Technology Center 1742.

Telephone inquiries concerning this decision may be directed 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

Enclosure:
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. 6

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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FEB 19 2003

OFFICE OF PETITIONS

In re Application of
Copley, Chidambaram, Sokol & Henderson
Application No. 10/107,228
Filed: October 28, 2002
Attorney Docket No. CHYRON 3.0-022
For: SYSTEM AND METHOD FOR ENHANCING STREAMING MEDIA DELIVERY AND REPORTING

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed October 28, 2002 (certificate of mailing date October 22, 2002).

The petition is granted.

Petitioner has shown that the non-signing inventors Chidambaram, Sokol, and Henderson have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declarations of John Remmler and Diane Murphy and the accompanying exhibits establish that the inventors were mailed the application papers, including the specification, claims and drawings, but Sokol and Henderson refused via e-mail to sign the declaration and Chidambaram failed to respond to the request that he sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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ELANGO CHIDAMBARAM
91 FERRY STREET, 1ST FLOOR
JERSEY CITY NJ 07307

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FEB 19 2003

OFFICE OF PETITIONS

In re Application of :
Copley, Chidambaram, Sokol & Henderson :
Application No. 10/107,228 :
Filed: October 28, 2002 : LETTER
Attorney Docket No. CHYRON 3.0-022 :
For: SYSTEM AND METHOD FOR ENHANCING :
STREAMING MEDIA DELIVERY AND REPORTING :

Dear Mr. Chidambarm:

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
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

CHRIS SOKOL
12 BONN PLACE
WEEHAWKEN NJ 07087

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FEB 19 2003

OFFICE OF PETITIONS

In re Application of
Copley, Chidambaram, Sokol & Henderson
Application No. 10/107,228
Filed: October 28, 2002
Attorney Docket No. CHYRON 3.0-022
For: SYSTEM AND METHOD FOR ENHANCING STREAMING MEDIA DELIVERY AND REPORTING

LETTER

Dear Mr. Sokol:

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
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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ALEXANDER HENDERSON
18 BOWBRIDGE LOCK
BOWBRIDGE
STROUD
GLOUCESTERSHIRE GL5 2JZ
UNITED KINGDOM

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FEB 19 2003

OFFICE OF PETITIONS

In re Application of :
Copley, Chidambaram, Sokol & Henderson :
Application No. 10/107,228 :
Filed: October 28, 2002 : LETTER
Attorney Docket No. CHYRON 3.0-022 :
For: SYSTEM AND METHOD FOR ENHANCING :
STREAMING MEDIA DELIVERY AND REPORTING :

Dear Mr. Henderson:

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: LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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C/O WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of :
Marvin M. Theimer et al :
Application No. 10/107,287 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. 213950 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 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 April 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2167 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA, PA 19106-2399

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Lyn Hughes, et. al.	:	
Application No. 10/107,288	:	ON PETITION
Filed: March 26, 2002	:	
Attorney Docket No. A01213	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113, to the final Office action mailed May 3, 2004, which set a shortened statutory period for reply of three (3) months. A two (2) months extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned after midnight October 3, 2004.

In response to the final Office action, petitioner submitted with the instant petition an authorization to charge, the listed deposit account, $1,370 for the petition to revive fee, $790 for the filing of a Request for Continued Examination (RCE) under 37 CFR 1.114, and $560 for an extension of time within the third month. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $560 extension of time submitted with the petition on November 22, 2004, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Petitioner should note that $1,370 and $790 were charged, as authorized, to the Deposit Account listed in the instant petition.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 1615, for processing the Request for Continued Examination.

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON NJ 08543-5312

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MAR 1 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Jun Li, et al.	:	
Application No. 10/107,292	:	DECISION ON PETITION
Filed: March 26, 2002	:	
Attorney Docket No. PU 010222	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 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, February 26, 2008, 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 May 27, 2008. The Notice of Abandonment was mailed September 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay.

The RCE that was filed herewith petition is not a proper response. The RCE fee of $810 will be credited back to your deposit account.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3691 for appropriate action by the Examiner in the normal course of business on the reply received

Chris Bottorff
Petitions Examiner
Office of Petitions

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (08/08)
Approved for use through 09/30/2008. 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 contains a valid OMB control number.

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SEP 15 2008

REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL
(Submitted Only via EFS-Web)

Application Number	10/107,292	Filing Date	2002-03-26	Docket Number (if applicable)	PU010222	Art Unit	3691
First Named Inventor	Jun LI			Examiner Name	Murial S. Tinkler		

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

SUBMISSION REQUIRED UNDER 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

- ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ☐ Other _____

☒ Enclosed

- ☒ Amendment/Reply
- ☐ Information Disclosure Statement (IDS)
- ☐ Affidavit(s)/ Declaration(s)
- ☒ Other Petition to Revive Unintentionally

MISCELLANEOUS

☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months _____
(Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

☐ Other _____

FEES

☒ **The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.**
The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No 070832

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☒ Patent Practitioner Signature
☐ Applicant Signature

09/15/2008 VBUI11 00000061 070832 10107292
02 FC:1801 810.00 DA

Adjustment date: 03/18/2009 CKHLOK
12/27/2007 PCHOMP 00000011 070832 10107292
01 FC:1801 810.00 CR

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 03/18/09

2 Serial/Patent # 10/107,292

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
X	Other			$ 810.00

7 TOTAL AMOUNT OF REFUND $ 810.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 0 7 -- 0 8 3 2

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

RCE is not necessary.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Williams TITLE: Paralegal Specialist

SIGNATURE: Terri Williams PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CK DATE: 3/18/09

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
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Alexandria, VA 22313-1450
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Paper No. 7

Venable, Baetjer, Howard and Civiletti, LLP
P.O. Box 34385
Washington DC 20043-9998

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APR 3 0 2004

Technology Center 2100

In re Application of:
John R. CALLAHAN, et al.
Application No. 10/107,302
Filed: March 28, 2002
For: LAYERING ENTERPRISE APPLICATION SERVICES USING SEMANTIC FIREWALLS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed April 8, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Mr. Arvin Rosen
Siskind, Grady, Rosen & Hoover, P.A.
1100 Mercantile Bank & Trust Building
2 Hopkins Plaza
Baltimore, MD 21201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
SUITE 600
1050 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036-5339

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SEP 2 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Takaei Sasaki, et al..	:	
Application No. 10/107,329	:	ON PETITION
Filed: March 28, 2002	:	
Attorney Docket No. 101136-00064	:	

This is a decision on the petition, filed September 13, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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. 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).

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 1763 for further processing of the request for continued examination under 37 CFR 1.114 filed September 13, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
1050 Connecticut Avenue, N.W., Suite 400
Washington, DC 20036-5339

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101 TOURNAMENT DRIVE
HORSHAM PA 19044

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OFFICE OF PETITIONS

In re Application of
Zeidler, et al. :
Application No. 10/107,346 : DECISION ON
Filed: March 26, 2002 : PETITION
Attorney Docket No. D2286 :

This is in response to the petition to revive under 37 CFR 1.137(b), filed January 23, 2006.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to pay the issue fee in response to the Notice of Allowance mailed June 14, 2005. This notice set a statutory period of three months for fee transmittal. No issue fee having been received, the application became abandoned on September 15, 2005. A Notice of Abandonment was mailed on November 7, 2005.

With the instant petition, petitioner paid the petition and issue fees, and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A2Y-3 CA CANADA

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JUN 16 2008

In re Application of	:	
Etienne Audet	:	
Application No. 10/107,351	:	DECISION ON PETITION
Filed: March 28, 2002	:	TO WITHDRAW
Attorney Docket No. 15124-1US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 26, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the customer number is improper.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. ETUENNE AUDET
195, LERE RUE OUEST
SAINT-CLAIRE, QUEBEC G0R 2V0
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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RABIN & BERDO P.C.
SUITE 500
1101 14TH STREET NW
WASHINGTON, DC 20005

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MAY 26 2004

OFFICE OF PETITIONS

In re Application of :
Kuang-Chung Tao et al :
Application No. 10/107,359 : NOTICE
Filed: March 28, 2002 :
Attorney Docket No. SUND 274 :

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 referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 600
1050 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036-5339

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AUG 2 1 2008

In re Patent No. 6,844,117 :
Application No. 10/107,439 :
Filed: March 28, 2002 : ON PETITION
Issued: January 18, 2005 :
Attorney Docket No. 101136-00063 :

This is a decision on the petition under 37 CFR 1.183, filed April 13, 2005, to waive the requirements of 37 CFR 3.81(b)[1] to add the third and fourth inventors' names on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

Petitioner states, "The Certificate of Correction is necessary to correct the Inventor Information to add the third and fourth inventors, 'Satoshi Aoyama' and 'Shouichi Sakamoto.'

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 petition to waive 37 CFR 3.81(b) cannot be granted, as it is not the proper course to add inventors. 37 CFR 3.81 is reserved for the correction of the assignees on a patent.

The proper course of action for adding inventor's after issuance into a patent is by way of a Petition under 37 CFR 1.324 for correction of inventorship. Any request to correct inventorship of a patent pursuant to paragraph (a) of this section must be accompanied by:

> (1) Where one or more persons are being added, a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on his or her part;

---

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

(2) A statement from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change;

(3) A statement from all assignees of the parties submitting a statement under paragraphs (b)(1) and (b)(2) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of § 3.73(b) of this chapter; and

(4) The fee set forth in § 1.20(b).

Further, a petition under 37 CFR 1.324 is not handled by the Office of Petitions. Petitioner should direct the petition to the Technology Center.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3206. Any questions concerning a Petition under 37 CFR 1.324 should be directed to the Technology Center.

Liana Walsh
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
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Paper No. 10

SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN VA 22102

In re Application of :
EBIHARA et al. :
Application No.: 10/107,449 :
Filed: March 28, 2002 :
Attorney Docket No. YIP0032-US :
For: CARBURIZATION TREATMENT METHOD AND:
CARBURIZATION TREATMENT APPARATUS :

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MAY 13 2004

OFFICE OF PETITIONS

DECISION GRANTING PETITION

In re Application of :
EBIHARA et al.. :
Application No. 10/107,206 :
Filed: March 28, 2002 :
Attorney Docket No. YIP0033-US :
For: CARBURIZATION TREATMENT METHOD :

This is a decision on the petition filed both of the above-identified applications on August 29, 2003, which are being treated as petitions under 37 CFR 1.181 to undo the USPTO processing errors in both applications.

The petitions are **granted to the extent noted below**.

Petitioners initially requested in each application on May 23, 2002, a corrected filing receipt, based on the application numbers assigned to their itemized postcard receipts. Petitioners now request that the USPTO re-scan the entire applications, as according to petitioners the USPTO has interleaved various parts of the two files.

Inspection of the contents of the '449 application reveals that the transmittal latter indicates that, as filed: (1) the inventors named are Ebihara, Takahashi, Abukawa, Yokose, and Juryozawa, (2) the title is "Carburization Treatment Method and Carburization Treatment Apparatus, (3) the docket number supplied by applicants for that captioned invention is YIP0032-US, (4) the specification contained 23 pages, 4 sheets drawings, 11 claims (2 independent), and an unexecuted declaration. Inspection of the aforementioned unexecuted declaration reveals that (1) the inventive entity is consistent with the transmittal letter, as is (2) the docket number (YIP0032-US), (3) applicants claimed benefit of Japanese priority document 2001-169635 filed June 5, 2001, and the file shows that ribboned document is in the file.

Inspection of the contents of the '206 application reveals that the transmittal latter indicates that, as filed: (1) the inventors named are Ebihara, Takahashi, Abukawa, Yokose, and Juryozawa, (2) the title is "Carburization Treatment Method, (3) the docket number supplied by applicants for that captioned invention is YIP0033-US, (4) the specification contained 21 pages, 4 sheets drawings, 7 claims (1 independent), and an unexecuted declaration. Inspection of the

aforementioned unexecuted declaration reveals that (1) the inventive entity is consistent with the transmittal letter, as is (2) the docket number (YIP0033-US), (3) that applicants claimed benefit of Japanese priority document 2001-169636 filed June 5, 2001, and the file shows that ribboned document is in the file.

Therefore what inspection of the copy of the itemized postcard receipt, as well as the filing receipt shows for each application is that the USPTO staff inadvertently (1) cross applied the labels for each of the above-identified applications to the postcard receipts, (2) and also cross applied the docket numbers, and priority application numbers. This, in turn caused applicants to, *inter alia*, file the executed declarations captioned for the incorrect applications, but other wise properly identifying the correct specification by its title, docket number, and corresponding priority document. The previously issued corrected filing receipts in fact exacerbated the errors.

However, it is neither necessary nor desirable to re-scan the entire contents of each application to remedy the situation. The USPTO bibliographic records of the files have been corrected to show that the docket number of the '449 application is YIP0032-US, its title is "Carburization Treatment Method and Carburization treatment Apparatus," that priority is claimed of the 169635 prior Japanese application; that the docket number of the '206 application is YIP0033-US, its title is "Carburization treatment method," that priority is therein claimed of the 169636 prior Japanese application and the declarations filed on have been placed in the file of the specification which each actually executed. That is while the declaration filed May 29, 2003 was placed in and captioned for application No. 10/107,449 due to the USPTO error, it also correctly identified (1) the title, (2) docket number, and (3) the corresponding Japanese priority document of the '206 application. As such, it has been placed in the '206 file by the undersigned. See MPEP 724.05III. Likewise, while the declaration filed May 28, 2003 was placed in and captioned for application No. 10/107,206 due to the USPTO error, it also correctly identified (1) the title, (2) docket number, and (3) the corresponding Japanese priority document of the "449 application. As such, it has been placed in the '449 file by the undersigned. See MPEP 724.05III.

However, the materials that were scanned in each file as having been present in each file on the date these applications were received at the USPTO were and remain correct. As such, there is nothing to correct by re-scanning.

Lastly, under the circumstances of these cases, and in view of the fact that applicants requested relief from the confusion caused by the USPTO within the period for reply to the restriction requirement in the '449 application, such is, under the circumstances of this case an appropriate reply. The Technology Center is requested to remail the Office action of July 30, 2003, and restart the period for reply in the '449 application. The USPTO regrets the delay in treating the petitions.

TO MINIMIZE FURTHER CONFUSION BETWEEN THE TWO APPLICATIONS, APPLICANTS SHOULD CORRECT THEIR DOCKET AND FILE RECORDS CONSISTENT WITH THIS DECISION. A CORRECTED FILING RECEIPT IS ENCLOSED FOR EACH APPLICATION.

These applications are being returned to Technology Center 1742.

Telephone inquiries concerning this decision may be directed 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

Enclosure:
Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Jeffrey A. Aaron et al :
Application No. 10/107,469 : DECISION ON PETITION
Filed: March 26, 2002 : TO WITHDRAW
Attorney Docket No. BELL-0102/00378 : FROM RECORD
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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 9, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys associated with Customer No. 23377 has been revoked by the assignee of the patent application on September 8, 2005. A Notice of Acceptance of Power of Attorney was mailed on April 10, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, NC 27627