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GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE
1 RIVERFRONT PLAZA
NEWARK, NJ 07102-5497

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JAN 26 2006

OFFICE OF PETITIONS

In re Application of :
Raymond Warner, et al. :
Application No. 10/107,498 : ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. PAK-3.2.001/4287 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 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 instant petition is not signed by a person authorized to sign a petition under 37 CFR 1.137(b) in the above-identified patent. 37 CFR 1.137(b) requires that any petition under 37 CFR 1.137(b) 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.

The petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) is signed by Poretta A. King-Roberson. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied.

Specifically, § 3.73 provides that:

> (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

A Statement under 3.73(b) is required in order to revive the application.

The Revocation of Power of Attorney/Change of Correspondence Address filed with the present petition is **not** accepted. In the instant case, Poretta A. King-Roberson, has not satisfactorily established ownership of the property to the satisfaction of the Commissioner. In this regard, the box checked, "Assignee of record of the entire interest. See 37 CFR 3.71. Statement Under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)", was **not** received with the Power of Attorney request. A blank copy of Statement under 37 CFR 3.73(b) accompanies this decision.

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

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

By hand: Customer Service Window
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

Attachment to cc: Blank copy of Statement under 37 CFR 3.73(b) form.

cc: Poretta A. King-Roberson
1992 Morris Ave Number 309
Union, NJ 07083

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United States Patent and Trademark Office
P.O. Box 1450
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PORETTA A. KING-ROBERSON
1992 MORRIS AVE, NUMBER 309
UNION, NJ 07083

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FEB 27 2006

OFFICE OF PETITIONS

In re Application of :
Raymond Warner, et al. :
Application No. 10/107,498 : ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. PAK-3.2.001/4287 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 30, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed September 27, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 28, 2004.

The Previous Power of Attorney has been revoked and the Change of Correspondence Address has been accepted and recorded.

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 referred to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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#7

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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NOV 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Paul D. ANGLES et al. :
Application No. 10/107,523 :
Filed: March 26, 2002 :
Attorney Docket No. FREEACC.001C2 :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed April 19, 2002, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 20, 2002.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of April 19, 2002 is accepted as having been unintentionally delayed.

Petitioner is advised that the file does not indicate a change of address has been submitted, even though 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.

Application No. 10/107,523

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence to the undersigned at (571) 272-3217.

The application is being referred to the Office of Initial Patent Examination.

Brian Hearn
Petitions Examiner
Office of Petitions

cc: Paul D. Angles, President Big Media
1834 s. Bentley #304
Los Angeles, CA 90025

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JUL 25 2007

OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

In re Application of
Paul D. Angles, et al.
Application No. 10/107,523
Filed: March 26, 2002
Attorney Docket No. IVHS-004

ON PETITION

This is a decision in response to the petition, filed March 16, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed March 21, 2006. A Notice of Abandonment was mailed on November 3, 2006. In response, on March 16, 2007, the present petition was filed.

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

Petitioner has supplied the reply in the form of an amendment and the petition fee of $1,500; however, the petition lacks an adequate statement of unintentional delay.

In this regard, the record indicates that petitioner was not responsible for prosecution of the application when the reply necessary to avoid abandonment was due. Therefore, petitioner must provide a statement from the owner of the invention at the time of abandonment explaining why action was not timely taken to prevent the application from becoming abandoned.

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Petitioner is advised to send a letter (accompanied by a copy of this decision) to INSOLVENCY SERVICES GROUP, INC. at 17401 Ventura Boulevard, Suite B21, Encino, CA 91316, by certified or registered mail (return receipt requested) indicating that the U.S. Patent and Trademark Office (USPTO) is requesting assistance in ascertaining the cause of abandonment of the above-identified application, and that the USPTO is requesting that INSOLVENCY SERVICES GROUP, INC. provide within a specified period (*e.g.*, one month) a statement setting forth why appropriate action was not timely taken to prevent the application from becoming abandoned. Petitioner is advised that, in the event that INSOLVENCY SERVICES GROUP, INC. does not provide such a statement, petitioner should submit a copy of such letter and a copy of the return receipt.

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)" as well as the omitted item(s) noted above. This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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FEB 29 2008

OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

In re Application of :
Paul D. Angles, et al. :
Application No. 10/107,523 : ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. **HS-0004 :

This is a decision on the renewed petition, filed November 1, 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 the non-final Office action mailed March 21, 2006. On March 16, 2007 a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed by a decision mailed July 25, 2007. In response, on November 1, 2007, the present petition was filed.

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

The application is being referred to Technology Center AU 1751 for appropriate action by the Examiner in the normal course of business on the response received November 1, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/26/2010

Applicant	: Paul D. Angles	: DECISION ON REQUEST FOR
Patent Number	: 7636672	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/107,523	: 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 **902** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Edward R. Gates, Esq.
Chantal Morgan D'Apuzzo
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Ave
Boston MA 02210

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JUL 22 2008

OFFICE OF PETITIONS

In re Application of :
SWINDELL et al. :
Application No. 10/107,537 : DECISION ON PETITION
Filed: 03/25/2002 :
Attorney Docket No. N00260/70051 :
(ERG/CSMD) :

This is a decision on the petition under 37 CFR 1.181, filed April 29, 2008, to withdraw the holding of abandonment.

This application was held abandoned for failure to respond timely to the nonfinal Office action mailed on August 20, 2007, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned and a Notice of Abandonment was mailed on March 31, 2008.

Petitioners aver that they filed a timely and proper reply to the nonfinal Office action and a request for an extension of time for response within the third month on February 20, 2008.

Upon a review of the record, the Office has located the reply and the request for an extension of time for response within the third month in the Image File Wrapper for this application. Accordingly, the response is considered timely filed on February 20, 2008.

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

The Notice of Abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a reply was timely filed.

The application is being referred to Technology Center Art Unit 1625 for a review of the reply filed on February 20, 2008.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination procedures should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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JUN 0 3 2005

OFFICE OF PETITIONS

In re Patent No. 6,777,383
Issued: August 17, 2004
Application No. 10/107,538
Filed: March 27, 2002
Attorney Docket No. 1123.12US05

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE
: OF CORRECTION

This is a decision on the petition under 37 CFR 1.78(a)(3) filed April 4, 2005, seeking to add the claim for priority on the front page of the Letters Patent by way of a Certificate of Correction to nonprovisional Application No. 09/906,541, filed July 16, 2001.

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 27, 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, Rev. 2, May 2004, page 1400-85, second column.

As 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 petition fee of $1370.00 and the Certificate of Correction fee of $100.00 accompanied the instant petition.

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

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3206.

This matter is being referred to the Certificates of Correction Branch for processing the request for a Certificate of Correction.

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

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MAR 05 2010

In re Patent No. 6,951,550 :
Issue Date: October 4, 2005 :
Application No. 10/107,546 : NOTICE
Filed: March 26, 2002 :
Attorney Docket No. VINTL.075CP1C1 :

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

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

There is no indication that the request is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Kendal M. Sheets appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If, Mr. Sheets desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Sheets, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: KENDAL SHEETS
COMPUTER PATENT ANNUITIES NORTH AMERICA
225 REINEKERS LANE
SUITE 400
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 23 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Paper No. 12

In re Application of
Matthew D. Ferris, et al.
Application No. 10/107,547
Filed: March 27, 2002
For: COUPLER FOR CABLE TROUGH

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on December 30, 2003.

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

☐ Postcard receipt being dated_____.

☒ USPTO return facsimile receipt dated June 26, 2003 which identifies the application by serial number and the type of Response that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____.
and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the Request for Reexamination (RCE) filed with the petition, then to the examiner for prompt action on the response.

cps/2/19/04

Randolph A. Reese
Special Programs Examiner
Group 3600

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JOSEPH A. WALKOWSKI
TRASKBRITT, PC
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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JUL 14 2004

OFFICE OF PETITIONS

In re Application of :
Albert Harvey et al :
Application No. 10/107,594 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. 1082-002 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 9, 2004, to withdraw the above-identified application from issue after payment of the issue fee. See 1233 *Official Gazette* 54 (April 11, 2000).

The petition is **DISMISSED as moot.**

Unfortunately, the petition did not reach the appropriate official for a decision until after the above-identified application issued as U.S. Patent No. 6,750,293. Any inconvenience caused petitioners is regretted.

The Request for Continued Examination (RCE) deposited on June 9, 2004, is considered an improper submission under 37 CFR 1.114 and will not be further processed. The RCE filing fee of $770 paid on June 9, 2004 is being refunded to counsel's deposit account.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Thereafter, the file of the above-identified application will be returned to Files Repository.

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

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

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ARLENE J. POWERS
GAUTHIER & CONNORS LLP
SUITE 3300
225 FRANKLIN STREET
BOSTON MA 02110

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MAR 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Sen et al.	:	
Application No. 10/107,613	:	ON PETITION
Filed: 28 March, 2002	:	
Att'y Docket No. 6680	:	

This is a decision on the renewed petition under 1.137(b),[1] filed on 14 February, 2005, to revive the above-identified application.

The petition is **GRANTED**.

---

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

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

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

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

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

This application became abandoned on 9 December, 2004, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed on 8 September, 2004, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 3 February, 2005.

The application will be referred to the Publishing Division for processing into a patent.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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MOTOROLA, INC.
LAW DEPARTMENT
1303 E. ALGONQUIN ROAD
SCHAUMBURG IL 60196

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of
Weston, et al.
Application No. 10/107,617
Filed: March 27, 2002
Attorney Docket No. IRI05439
For: METHOD AND APPARATUS FOR MINIMIZING SETUP TIME FOR A MOBILE STATION

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed February 6, 2006, to revive the above-identified application. The petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

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

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on December 14, 2004, which set an extendable three month period for reply. The Office has no record of receiving an extension of time or a reply to the December 14, 2004 non-final Office action in application no. 10/107,617. Therefore, the Office considered the application abandoned on March 15, 2005. A Notice of Abandonment was mailed on January 10, 2006.

Petitioners assert that a proper response in the form of an amendment was timely filed on March 2, 2005. A review of a copy of the March 2, 2005 amendment reveals that the application number is listed as 10/101,617. Therefore, the amendment was not associated with application no. 10/107,617's file.

A review of the contents of the application no. 10/101,617 reveals that the March 2, 2005 amendment is present.

Even though petitioners cited the wrong application number on the amendment, under MPEP 502, " A minor error in the identification of the application can be corrected by the group provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number." The

undersigned believes that a relatively simple review of Office records would have yielded the correct application number to enable the Office to match the March 2, 2005 correspondence with this application file. A cross-referencing of any of the accurate identifiers found on the amendment with Office databases would have revealed the typographical error.

The undersigned will request that the March 2, 2005 amendment be removed from the file of application no. 10/101,617 and placed in the file of the above-identified application.

The March 2, 2005 amendment was timely filed. Accordingly, the petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

The $500.00 Rule 137(a) petition fee will be credited to deposit account no. 50-2117.

The application file will be forwarded to the Technology Center AU 2618 for consideration of the amendment filed on March 2, 2005.

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

Shirene Willis Brantley

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

MAIL

Paper No. 3

OCT - 2 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Charles L. Warner II
TROUTMAN SANDERS LLP
Bank of America Plaza
600 Peachtree Street, N.E., Suite 5200
Atlanta, GA 30308-2216

In re Application of:
Bradley S. Birnbaum
Application No. 10/107,632
Filed: March 27, 2002
For: COLLABORATION BETWEEN TWO COMPUTING DEVICES

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed September 4, 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 September 4, 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: MELITA INTERNATIONAL, INC.
Att.: Legal/Patent Department
5051 Peachtree Corners Circle
Norcross, GA 30092-2500

UNITED STATES 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 S Gzybowski
Butzel Long
350 South Main Street
Suite 300
Ann Arbor MI 48104

COPY MAILED

JUN 22 2005

OFFICE OF PETITIONS

In re Application of :
Jensen et al. :
Application No.10/107,643 : ON PETITION
Filed: March 27, 2002 :
Title of Invention: Wheel Ornamentation :
Assembly :

This is a decision on the petition filed July 7, 2004 under 37 CFR 1.137(a).

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

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

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of June 10, 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). An amendment after final Office Action was filed on September 8, 2003. An Advisory Action mailed on September 8, 2003 informed petitioner the application was not placed in condition for allowance. Accordingly, this application became abandoned on September 11, 2003. A Notice of Abandonment was mailed on May 7, 2004.

Petitioner states that Assignee's (McKechnie Vehicle Components) patent files were transferred from the law firm Bliss McGlynn, P.C. to the law firm of Butzel Long, P.C. on or about August-September, 2003. An advisory action was mailed to the law firm of Bliss McGlynn. The advisory action was returned to the USPTO. Purportedly Daniel Bliss of Bliss McGlynn informed the USPTO they were no longer accepting correspondence for the above-identified application. Petitioner states he was not aware that Bliss McGlynn would not longer accept correspondence.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. The Advisory Action was mailed to the correspondence address of record as it existed on September 18, 2003. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. See 37 CFR 1.33(a).

Petitioner's statement that correspondence was being forwarded from Bliss McGlynn to Butzel Long does not absolve the assignee from notifying the USPTO of the change in

---

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

correspondence address. Petitioner is under a duty to **promptly** notify the Patent Office of any change of the correspondence address. See MPEP 711.03 (c)(III)(c)(2).[2] The Files were transferred between August and September, petitioner cannot overcome the fact that there was a failure to file a revocation of power of attorney and a change of correspondence address. The revocation and change of correspondence address could have been filed in either August or September or at least with the submission of the request for reconsideration filed on September 8, 2003.

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[3]

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required 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 pursuant to 37 C.F.R. § 1.137(b) was unintentional.

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

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[2] Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:
(A) the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;
(B) the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or
(c) the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address. MPEP 711.03 (c)(III)(C)(2).

[3] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael S Gzybowski
Butzel Long
350 South Main Street
Suite 300
Ann Arbor MI 48104

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of
Jensen et al.
Application No.10/107,643
Filed: March 27, 2002
Title of Invention: Wheel Ornamentation Assembly

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed July 26, 2005.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of June 10, 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). An amendment after final Office Action was filed on September 8, 2003. An Advisory Action mailed on September 8, 2003 informed petitioner the application was not placed in condition for allowance. Accordingly, this application became abandoned on September 11, 2003. A Notice of Abandonment was mailed on May 7, 2004. A petition under 37 CFR 1.137(a) was dismissed on June 22, 2005.

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 3600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 25 2003

EDWARD S. IRONS
3945 - 52nd Street, N. W.
Washington, D.C. 20016

In re Application of :
Daniel A. Gately et al :
Serial No.: 10/107,648 : Decision on Petition
Filed: March 27, 2002 :
Attorney Docket No.:

This is in response to applicants' "Petition Pursuant to 37 CFR 1.144" filed on October 16, 2003.

On November 12, 2002 a Restriction Requirement was mailed. The restriction set forth four groups and stated that claim 2 cannot be grouped because it is incomplete. On December 5, 2002, applicants filed an election and traversed the restriction. On February 12, 2003, an Office action was mailed. The examiner stated that the traversal is not found persuasive and the restriction was made final. On April 7, 2003, a response was filed. Applicants stated that "..... a petition to review the ruling is now appropriate. 37 CFR 1.144. Such a petition will be filed". However, no petition was filed. On June 6, 2003, a Final action was mailed. On July 17, 2003, a Notice of Appeal was filed. On October 16, 2003, the present petition was filed concurrently with the filing of the Appeal Brief.

Applicant's attention is invited to 37 CFR 1.144, It states:

Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed **not later than appeal**."

Applicants' petition was not timely filed. Accordingly, the petition is dismissed.

Petition DISMISSED.

Should there be any questions with respect to this decision, please contact Cecilia Tsang, by mail addressed to: Director, Technology Center 1600, Alexandria, VA 22313-1450, or by telephone at (703) 308-0254 or by facsimile transmission at (703) 305-7230.

Bruce 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. 4

Warner Norcross & Judd LLP
900 Fifth Third Center
111 Lyon Street, N.W.
Grand Rapids, MI 49503-2487

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SEP 2 4 2002

OFFICE OF PETITIONS

In re Application of
Peter Sartorius, Gary Packingham and Sterling Heibeck
Application No. 10/107,676
Filed: March 27, 2002
Title of Invention: SYSTEM FOR PROVIDING WEB-BASED CASE MANAGEMENT

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 6, 2002.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor can not be reached or located and diligent effort has been used to locate the inventor. Specifically, the petition indicates the application papers were sent to the last known address of Sterling Heibeck. The envelope was returned unopened. Petitioner left several phone messages on non-signing inventor's cellular phone number (the manner non-signing inventor was previously contacted) and conducted electronic searches without success.

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

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

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

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Sterling Heibeck
6989 Ada Drive
Grand Rapids, MI 49546

In re Application of
Peter Sartorius, Gary Packingham and
Sterling Heibeck
Application No. 09/965,316
Filed: September 27, 2001
Attorney Docket No.10541-057

LETTER

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SEP 2 4 2002

OFFICE OF PETITIONS

Dear Mr. Heibeck:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper In the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

CC: Gregory B. Bondarenko
Warner Norcross & Judd LLP
900 Fifth Third Center
111 Lyon Street, N.W.
Grand Rapids MI 49503-2487

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Paper No. 6

Richard A. Ryan
RYAN & ENGNATH
Suite 104
8469 N. Millbrook
Fresno, CA 93720

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MAR 3 1 2004

OFFICE OF PETITIONS

In re Application of :
Mireles et al. :
Application No. 10/107,685 : ON PETITION
Filed: March 26, 2002 :
Attorney Docket Number: RAR383.02 :
Title of Invention: V-CUT KNIFE FOR :
CUTTING CROPS AND METHOD OF :
USE THEREOF :

This is a decision on the petition under 37 CFR 1.137(b), filed March 19, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on July 9, 2003. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on October 10, 2003. A Notice of Abandonment was mailed on January 29, 2004.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

Woodard Emhardt Moriarty
McNett and Henry
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

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JUL 2 2 2003

OFFICE OF PETITIONS

In re Application of :
David W. Keith et al. :
Application No. 10/107,694 :DECISION GRANTING PETITION
Filed: March 27, 2002 :UNDER 37 CFR 1.137(B)
Attorney Docket No. 3046-224 :

This is a decision on the petition under 37 CFR 1.137(f) filed June 2, 2003, and supplemented on July 8, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on March 27, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

Any inquiries concerning this decision may be directed to the undersigned at (703) 308-6911.

This application is being forwarded to Technology Center Art Unit 3727 to await a reply to the Non-Final Office action mailed June 4, 2003. **Failure to timely reply will again result in the abandonment of this application.**

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

Frances Hicks
Petitioners Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EPSON RESEARCH AND DEVELOPMENT INC
INTELLECTUAL PROPERTY DEPT
150 RIVER OAKS PARKWAY, SUITE 225
SAN JOSE, CA 95134

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SEP 1 2 2002

OFFICE OF PETITIONS

In re Application of :
Fujisawa, et al. :
Application No. 10/107,726 : DECISION ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. P6701a :

This is a decision on the "Petition to Grant Filing Date," filed June 11, 2002, requesting that the above-identified application be accorded a filing date of March 26, 2002.

Application papers in the above-identified application were filed on March 26, 2002. However, on April 24, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.[1] In addition, an oath or declaration was missing from the application.

In reply, applicants timely filed the instant petition. Applicants maintain that the application was filed with drawings on March 26, 2002. In support thereof, applicants submit a copy of their return postcard receipt, itemizing "14 Sheets of Drawings" among the enclosures, bearing a USPTO date-stamp of March 26, 2002 with application No. assignment of 10/107,726, and lacking any notation of non-receipt of any item listed. Included with the petition is a copy of the fourteen (14) sheets of drawings as originally filed

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Applicant has shown that the application as filed on March 26, 2002 included fourteen (14) sheets of formal drawings, and thus, is entitled to a filing date of March 26, 2002.

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

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 19-2746, as authorized.

---

[1] See 35 U.S.C. 111(a)(4).

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of March 26, 2002, using the application papers received in the Office on that date and the fourteen (14) sheets of drawings resubmitted on petition filed June 11, 2002;
- indication in Office records that fourteen (14) sheets of drawings were present on filing; and
- processing of the response (an executed declaration and surcharge) to the Notice to File Missing Parts of Application, filed June 11, 2002.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

E. Shirene Willis for

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

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LIPSITZ & MCALLISTER, LLC
755 MAIN STREET
MONROE, CT 06468

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MAR 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Krit Panusopone :
Application No. 10/107,755 : ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. GIC-654 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 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 14, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 15, 2005.

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

This matter is being referred to Technology Center AU 2621 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Thomas Bethea Jr.
Motorola Connected Home Solutions
101 Tournament Drive
Horsham, PA 19044

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Paper No.

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Patent No. 6,942,655	:	DECISION ON APPLICATION
Gholam Peyman	:	FOR
Issue Date: September 13, 2005	:	PATENT TERM ADJUSTMENT
Application No. 10/107,761	:	and
Filed: March 27, 2002	:	NOTICE TO INTENT TO ISSUE
Attorney Docket No. PMAN/17CP	:	CERTIFICATE OF CORRECTION
	:	

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT," filed July 18, 2005. Applicant requests that the initial determination of patent term adjustment be corrected from thirty-nine (39) days to one hundred twenty-nine (129) 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 twenty-nine (129) days.

Prior to a decision being issued on the application, the application matured into U.S. Patent No. 6,942,655, with a revised patent term adjustment of eighty (80) days. The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred seventy (170)** days.

On April 22, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 39 days. On July 18, 2005, the instant request for reconsideration was timely filed[1], disputing the reduction of 90 days for applicant's filing of an election on April 2, 2004. Then applicant asserted that the election was originally filed on October 21, 2003, and resubmitted on April 2, 2004. Accompanying the paper is proof of the original filing by facsimile transmission on October 21, 2003.

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[1] The Issue Fee payment was received in the Office on July 20, 2005.

A review of the application record reveals that the reduction of 90 days is not warranted. The reduction is based on Applicant's taking in excess of 3 months to respond to the Office action mailed October 3, 2003. However, the record supports a conclusion that the paper filed April 2, 2004 was filed with evidence to have the response considered timely filed by facsimile on October 21, 2003. In this instance, the date of facsimile transmission should be used for purposes of considering whether applicant failed to engage in reasonable efforts to conclude prosecution. As this date was within three months of the mailing of the Office action, no reduction pursuant to § 1.704(b) is warranted.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is one hundred twenty-nine (129) days. After the mailing of the notice of allowance, a period of adjustment of forty-one (41) days was entered for the Office taking in excess of three years to issue the patent.

Accordingly, the patent should have issued with a revised patent term adjustment of one hundred seventy (170) days.

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

The fee is required and will not be refunded.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ONE HUNDRED SEVENTY (170)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,942,655 B2

DATED : September 13, 2005

INVENTOR(S) : Peyman

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 (80) days

Delete the phrase "by 80" and insert – by 170 days--

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Paper No.

WITHERS & KEYS FOR BELL SOUTH
P. O. BOX 71355
MARIETTA GA 30007-1355

COPY MAILED

OCT 0 1 2007

OFFICE OF PETITIONS

In re Application of :
Curtis W. Hall et al. :
Application No. 10/107,775 : DECISION ON PETITION
Filed: March 28, 2002 : UNDER 37 C.F.R. § 1.181
Attorney Docket No.: BS02-017 :
Title: SYSTEM AND METHOD FOR :
CONTROLLING HEAT EXCHANGER FANS :

This is a decision on the petition filed on August 24, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The change of correspondence address has been entered and made of record.

It is noted in passing that the petition contains the wrong inventive entity. This appears to be a typographic error; if this is not the case, Petitioner must notify the Office.

BACKGROUND

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed December 1, 2006, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on January 2, 2007. A Notice of abandonment was mailed on July 17, 2007.

RELEVANT PORTION OF THE MPEP

MPEP 711.03(c) states, *in pertinent part*:

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

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

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

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

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

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

ANALYSIS

With the present petition, Petitioner has asserted that the Office communication was not received, has attested to the fact that a search of the file jacket and docket records indicates that the Office communication was not received, and has provided

a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed.

Petitioner has failed to establish that the holding of abandonment should be withdrawn, pursuant to the discussion below.

First, the docket report that Petitioner has submitted does not appear to be complete - it does not appear that all mailings that are received in conjunction with this application are entered into this docketing system.

The present application was filed on March 28, 2002, and on April 29, 2002, a notice to file missing parts of nonprovisional application was mailed by the Office. On May 29, 2002, a response was received. On December 21, 2006, the Office mailed the restriction requirement that Petitioner has asserted was not received, and on December 12, 2006, Petitioner submitted a change of correspondence address. On December 20, 2006, the Office mailed a notice regarding power of attorney. On July 17, 2007, the Office mailed a notice of abandonment. On August 24, 2007, the present petition was filed.

This constitutes a plurality of mailings, yet Petitioner's docket report contains only a single entry. This entry is entitled "status check," and is dated July 31, 2003[1].

Secondly, Petitioner has asserted that the restriction requirement was "addressed to a previous firm despite a power of attorney with change of correspondence address that was filed and received by the Patent Office in August of 2004."

The electronic file has been reviewed, and a power of attorney with change of correspondence address that is dated August of 2004 has not been located.

It is noted that the change of correspondence address that was filed on December 12, 2006 set forth that a "change in power of attorney and correspondence address was filed in (sic) August 25, 2004." The communication of December 12, 2006 further sets forth "...this filing appears on the electronic file wrapper," but this does not appear to be an accurate statement.

Moreover, Office records have been reviewed, and there does not appear to be a record of the receipt of a power of attorney and change of correspondence address dated August 25, 2004. With the present petition, it does not appear that Petitioner has submitted a copy of this filing.

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1 It is noted in passing that the electronic file has been reviewed, and there is no record of this communication.

It appears that at some time prior to the mailing of the restriction requirement, the official correspondence address of record should have been changed from an address in Virginia to an address in Georgia. What is not clear, however, is whether or not the Office was timely notified of this.

Therefore, it is not clear whether the Office action was properly mailed by this Office to the correspondence address of record in Virginia and Petitioner did not receive the Office action, or whether the correct correspondence address had changed to an address in Georgia prior to the mailing of the Office action, but Applicant failed to timely notify this Office of the change in the correspondence address.

As such, the petition must be **DISMISSED.**

Any reply to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted.

The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

On renewed petition, Petitioner should include a copy of the power of attorney and change of correspondence address that was purportedly submitted to the Office on August 25, 2004.

Petitioner should also indicate precisely when this physical change of address occurred.

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

Any future submission concerning this matter should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. All other inquiries

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2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 Petitioner 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

concerning examination procedures or status of the application should be directed to the Technology Center.

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

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reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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OFFICE OF PETITIONS

WITHERS & KEYS FOR BELL SOUTH
P. O. BOX 71355
MARIETTA GA 30007-1355

In re Application of :
Curtis W. Hall et al. :
Application No. 10/107,775 : DECISION ON RENEWED PETITION
Filed: March 28, 2002 : UNDER 37 C.F.R. § 1.181
Attorney Docket No.: BS02-017 :
Title: SYSTEM AND METHOD FOR :
CONTROLLING HEAT EXCHANGER FANS :

This is a decision on the renewed petition filed on November 26, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed December 1, 2006, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on January 2, 2007. A Notice of abandonment was mailed on July 17, 2007.

An original petition was filed on August 24, 2007, and was dismissed via the mailing of a decision on October 1, 2007.

ANALYSIS

With this renewed petition, Petitioner has established that a change in power of attorney and correspondence address was received in the Office on August 27, 2004, however this request was neither entered nor effectuated.

CONCLUSION

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is hereby **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the Restriction Requirement of December 1, 2006, and will set a new period for response.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[1].

Paul Shanoski
Senior Attorney
Office of Petitions

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1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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GARDNER GROFF, P.C.
PAPER MILL VILLAGE, BUILDING 23
600 VILLAGE TRACE
SUITE 300
MARIETTA, GA 30067

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OFFICE OF PETITIONS

In re Application of	:	
Stefan Beseki, et al.	:	
Application No. 10/107,783	:	ON PETITION
Filed: March 27, 2002	:	
Attorney Docket No. 241907-1050	:	

This is in response to the paper filed October 22, 2004 under 37 CFR 1.27(g) (2) requesting that status as a Small Entity be removed.

In accordance with the October 22, 2004 request, status as a Small Entity has been removed.

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

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13 JUL 2006

GARDNER GROFF SANTOS & GREENWALD, P.C.
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

In re Application of
BESEKI et al.
Application No.: 10/107,783
Filing Date: 27 March 2002
Attorney's Docket No.: 241907-1050
For: DEVICE AND METHOD FOR CONTROLLING THE QUALITY OF MICRODROPLETS ON A SUBSTRATE

DECISION

This application is before the Office of PCT Legal Administration, United States Patent and Trademark Office (USPTO) for consideration of matters arising under 35 U.S.C. 371.

BACKGROUND

On 05 October 2002 applicant filed international application PCT/EP00/09773, which claimed priority of an earlier German application filed 05 October 1999. The thirty month period for entry into the U.S. national stage expired at midnight on 05 April 2002.

On 27 March 2002, applicant filed a Utility Transmittal Letter (Only for new nonprovisional application under 37 CFR 1.53(b)) with the $370 filing fee, specification, claims and drawings. The filing was improperly treated as a submission under 35 U.S.C. 371.

On 10 March 2006, a Notice of Allowance was mailed to applicant. The application is withdrawn from issue for the reasons set forth below.

DISCUSSION

Applicants' use of the "Utility Patent Application Transmittal" filed 27 March 2002 with the reference to 37 CFR 1.53(b) in the transmittal letter is inconsistent with and would have contradicted any desire expressed in any papers filed to enter the national stage of the PCT under 35 U.S.C. 371. A national application which requests treatment under 37 CFR 1.53(b) cannot be considered the national stage application of international application PCT/EP00/09773 and is an indication of papers filed under 35 U.S.C. 111(a). In view of the above, it is proper to treat the initial filing as a filing under 35 U.S.C. 111(a).

The USPTO improperly treated the application as a national stage filing under 35 U.S.C. 371. The application is deemed to have been filed under 35 U.S.C. 111(a) and international application PCT/EP00/09773 is abandoned with respect to the United States.

Applicant is advised that in order to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, this application (Serial No. 10/107,783) and the international application (PCT/EP00/09773) designating the United States must be copending on 27 March 2002.

Applicant may wish to file a petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121 or 365(c) for the benefit of a prior-filed application. *See* 37 CFR 1.78(a)(3). In order to obtain benefit of the earlier international application, applicant must make reference to the previous application and state the relationship. The required reference may either be in an application data sheet or the specification must contain or be amended to contain such reference in the first sentence. An appropriate passage would be, "This is an continuation of international application PCT/EP00/09773, filed 05 October 2000, which designated the United States and is now abandoned."

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit a certified copy of the priority document. The certified copy of priority document submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP §1896.

A Notice of Allowance and Fee Due was mailed on March 10, 2006, indicating the issue fee was due on June 12, 2006. To date, USPTO records indicate that the issue fee has not been received. Accordingly, the application is **ABANDONED**.

Applicant may wish to file a petition under 37 CFR 1.137 to revive the application, a request for continuation for continued examination, a petition to accept an unintentional delay claim under 37 CFR 1.78(a)(3) for the benefit of a prior-filed application and a certified copy of priority document.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 571-272-3286
Facsimile: 571-273-0459

CMK/LS

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/20/2010

Applicant	: Fred H. Burbank	: DECISION ON REQUEST FOR
Patent Number	: 7594890	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/107,800	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/28/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1068** 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.

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)
6759983	2004-07-06	10/107,811	2002-03-28	8110.002

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◯ A sole patentee

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

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

◯ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/James Remenick/	Date (YYYY-MM-DD)	2008-09-04
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 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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United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6759983
Issue Date: July 6,2004
Application No. 10107811
Filed: March 28,2002
Attorney Docket No. 144008.00100

:

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

:

This is a decision on the electronic petition, filed September 4,2008 ,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 4,2008 . 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

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NOV 28 2007

OFFICE OF PETITIONS

MAYER, BROWN, ROWE & MAW LLP
71 SOUTH WACKER
CHICAGO IL 60606

In re Patent No. 7041786 :
Issue Date: 05/09/2006 :
Application Number: 10/107814 : ON PETITION
Filing Date: 03/28/2002 :
Attorney Docket Number: P 0284943 :
:

This is a decision on the paper filed on October 1, 2007, which is treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The address in the request is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the request. All future correspondence, however, will be mailed solely to the address of record.

The application is referred to the Certificate of Corrections Branch for issuance of the Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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

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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Fish & Richardson P.C.
Citigroup Center
52nd Floor
153 East 53rd Center
New York, New York 10022-4611

COPY MAILED

FEB 14 2006

OFFICE OF PETITIONS

In re	:	
Tamatani et al.	:	
Application No. 10/107,828	:	RECONSIDERATION OF
Filing Date: March 26, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket: 14539-004003	:	

This decision is in response to applicant's "LETTER REGARDING PATENT TERM ADJUSTMENT filed December 15, 2005 requesting that the PTA determination at the time of the notice of allowance be adjusted from FIVE HUNDRED AND EIGHTY NINE (589) days to a determination FIVE HUNDRED AND EIGHTY-EIGHT (588) days. The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants request for PTA reconsideration is **dismissed.**

Applicants assert that the determination of 589 days is incorrect because the office improperly entered a response date by applicant of March 21, 2005 rather the express mail date of March 22, 2005. Accordingly, applicants believe that the Office provided too much PTA and one day of adjustment should be withdrawn.

Applicants' arguments are not persuasive. The record does reflects that the response by applicant was in fact filed on March 22, 2005, not March 21, 2005 as entered in the PALM by the Office. However, the applicants regardless of whether such response date was either March 21st or 22nd would not have been a reduction to applicants because the paper the non-final rejection that applicants were reply to occurred on December 27, 2004. Accordingly, applicants could have replied anytime on/prior to

March 27, 2004 without a reduction under 37 CFR 1.704(b). Accordingly, the Office determination of five hundred and eighty-nine (589) days is accurate.

After the mailing of this decision, the application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent application. Any delays in issuing the application within four months of the payment of the issue fee will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office has not assessed the $200.00 fee for the submission of this letter regarding PTA. The Office thanks for good faith and candor bringing this matter to the attention of the Office.

Any questions concerning this application should be directed to Kery Fries at 571-272-7757.

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

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JUL 18 2006

OFFICE OF PETITIONS

In re	:	
Tamatani et al.	:	
Application No. 10/107,828	:	RECONSIDERATION OF
Filing Date: March 26, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket: 14539-004003	:	

This decision is in response to applicant's "LETTER REGARDING PATENT TERM ADJUSTMENT filed December 15, 2005 requesting that the PTA determination at the time of the notice of allowance be adjusted from FIVE HUNDRED AND EIGHTY NINE (589) days to a determination FIVE HUNDRED AND EIGHTY-EIGHT (588) days.[1] The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants request for PTA reconsideration is **GRANTED.**

Applicants assert that the determination of 589 days is incorrect because the office improperly entered a response date by applicant of March 21, 2005 rather the express mail date of March 22, 2005. Accordingly, applicants believe that the Office provided too much PTA and one day of adjustment should be withdrawn.

Applicants' arguments are persuasive. The record does reflects that the response by applicant was in fact filed on March 22, 2005, not March 21, 2005 as entered in the PALM by the Office.

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[1]On February 14, 2006, the Office dismissed the good faith and candor request to review the PTA determination at the time of the mailing of the notice of allowance. Upon second review, the request should have been granted.

The Office had 4 months from March 22, 2005 to respond to applicant's reply but failed to do such until October 25, 2005. Accordingly, the Office delayed for a period of 94 days not 95 days as determined in the PTA calculation.

After the mailing of this decision, the Office will await any response by applicant. The Office is aware that applicants have filed or will be filing a petition under 37 CFR 1.705(d) requesting that the Office add 120 days to the final determination. The Office will wait until after deciding that petition to issue a certificate of correction.

The Office has not assessed the $200.00 fee for the submission of this letter regarding PTA. The Office thanks for good faith and candor bringing this matter to the attention of the Office.

Any questions concerning this application should be directed to Kery Fries at 571-272-7757.

Kery A Fries

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

cc: Adjusted PAIR calculation

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AUG 23 2006

OFFICE OF PETITIONS

In re	:	
Tamatani et al.	:	
Application No. 10/107,828	:	RECONSIDERATION OF
Filing Date: March 26, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket: 14539-004003	:	

This decision is in response to patentee's "PETITION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)" filed July 17, 2006 requesting that the PTA determination at the time of the notice of allowance be adjusted from FOUR HUNDRED AND NINETY-NINE (499) days to a determination SIX HUNDRED AND NINETEEN (619) days.

Applicants request for PTA reconsideration is **GRANTED.** The Office will *sua sponte* issue a certificate of correct reflecting this decision. In addition, the Office will adjust the PAIR determination to reflect this decision.

Patentees assert that the determination of 499 days at the time of the issuance of the patent is incorrect because the office improperly entered a paper as a supplemental oath or declaration on November 15, 2005. Patentees allege that such paper was actually a part of the IDS submission filed in March 2003 and that applicant was providing a courtesy copy of such submission to the examiner who requested that the applicant provide a copy of the earlier filing. Accordingly, applicants believe that one hundred and twenty (120) day reduction is in error.

Patentees' arguments are persuasive. The record does reflect that the papers submitted after the mail date of the notice of allowance were courtesy copies of papers that had been previously submitted in March 2003. Accordingly, The Office should not have

assessed a reduction pursuant to 37 CFR 1.704(c)(10) because applicant did not submit a new oath/declaration nor IDS after the mail date of the notice of allowance. Accordingly, the Office delayed for a period of 619 (494 + 94 +31 = 619) days

After the mailing of this decision, the Office will submit the patented file to the Office of Patent Publication, certificate of correction branch, for a prompt issuance of a certificate of correction.

The Office has assessed the $200.00 fee to deposition account 06-1050. No additional fees are required with this decision.

Any questions concerning this application should be directed to Kery Fries at 571-272-7757.

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

cc: Adjusted PAIR calculation
Draft C of C

Day : Tuesday
Date: 8/22/2006

PALM INTRANET

Time: 12:41:12

PTA Calculations for Application: 10/107828			
Application Filing Date:	03/26/2002	PTO Delay (PTO):	620
Issue Date of Patent:	05/16/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	120
Post-Issue Petitions:	0	Total PTA (days):	619
PTO Delay Adjustment:	119		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
56	08/22/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
55	07/18/2006	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
53	07/17/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
48.5	04/26/2006	PTA 36 MONTHS			
48	05/16/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	31		39
47	04/10/2006	EXPORT TO FINAL DATA CAPTURE			
46	04/07/2006	FINISHED INITIAL DATA CAPTURE			
45	04/07/2006	DISPATCH TO FDC			
44	02/14/2006	PETITION DECISION - DISMISSED			
41	11/15/2005	SUPPLEMENTAL PAPERS - OATH OR DECLARATION		120	
40	01/25/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
39	12/15/2005	ISSUE FEE PAYMENT VERIFIED			
38	12/15/2005	PETITION ENTERED			
37	12/15/2005	ISSUE FEE PAYMENT RECEIVED			
36	11/15/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
35	11/09/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
34	10/31/2005	EXPORT TO INITIAL DATA CAPTURE			
33	10/24/2005	MAIL NOTICE OF ALLOWANCE	95		24
32	10/20/2005	ISSUE REVISION COMPLETED			
31	10/20/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			

30	10/20/2005	NOTICE OF ALLOWABILITY			
29	06/14/2005	MAIL LETTER OF SUSPENSION			
28	06/13/2005	LETTER OF SUSPENSION - EXAMINER INITIATED			
27	03/21/2005	REFERENCE CAPTURE ON IDS			
26	03/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	24
25	04/01/2005	DATE FORWARDED TO EXAMINER			
24	03/21/2005	RESPONSE AFTER NON-FINAL ACTION			
23	12/27/2004	MAIL NON-FINAL REJECTION			
22	12/21/2004	NON-FINAL REJECTION			
21	12/10/2004	MISCELLANEOUS INCOMING LETTER			
20	10/29/2004	DATE FORWARDED TO EXAMINER			
19	10/21/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
18	10/21/2004	WORKFLOW INCOMING AMENDMENT IFW			
17	10/01/2004	MAIL RESTRICTION REQUIREMENT	494		-1
16	09/29/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
15	07/29/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	04/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	07/03/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	03/26/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	10/07/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
9	09/03/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	03/26/2002	PRELIMINARY AMENDMENT			
7	05/08/2002	APPLICATION DISPATCHED FROM OIPE			
6	05/07/2002	APPLICATION IS NOW COMPLETE			
4	04/11/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	04/11/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	03/26/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	03/26/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,045,615 B2

DATED : May 16, 2006

INVENTOR(S) : Tamatani 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 (499) days

Delete the phrase "by 499 days" and insert – by 619 days--

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143 EAST 53RD CENTER
NEW YORK, NY 10022-4411

MAILED

JUL 22 2010

OFFICE OF PETITIONS

Applicant: Tamatani, et al.

Application No. 10/107,828
Filed: March 26, 2002
Attorney Docket No.:14539-004003

: ON PETITION
: under 37 CFR 1.183
: and 37 CFR 1.705(d)
: REQUEST FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the Petition under 37 C.F.R. 1.183, requesting that the Office waive the 2 month period Patent Term Adjustment under 37 C.F.R. 1.705(d) filed on January 22, 2009.

The request for reconsideration of patent term adjustment under 37 CFR 1.183 to waiver of the requirements under 37 CFR 1.705(d) is **dismissed.**

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On May 16, 2006, the above-identified application matured into U.S. Patent No. 7,045,615, with a revised patent term adjustment of 499 days. A first request for reconsideration under 37 CFR 1.705(d) of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. The Office granted that relief requested and the total PTA delay was established at 619 days. Patentee now petitions under 37 C.F.R. § 1.183 to waive the requirement of 37 C.F.R. § 1.705(d)and file

a second petition under 37 CFR 1.705(d) to consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on May 16, 2006. A request for reconsideration of the patent term adjustment indicated in the patent was filed on July 17, 2006. The request solely requested that the Office remove the 120-day reduction pursuant to 37 CFR 1.704(c)(10). On August 23, 2006, the Office granted petitioner's request. On January 22, 2009 Petitioner requested that the Office consider on the merits the Request for Reconsideration of Patent Term Adjustment under the second filed 37 C.F.R. 1.705(d) even though it is filed more than 2 and 1/2 years from the date of patent issuance.

The Office published a notice as to which patents would be eligible for a request for recalculation of patent term adjustment. See Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth V. Kappos Regarding the Overlapping Delay Provision of 35 USC 154(b)(2)(A), 75 Fed. Reg. 5043 (Feb. 1, 2010). A copy of the notice submitted to the Federal Register for publication and the form for patentees to use in requesting a recalculation of patent term is on the USPTO Web site at http://www.uspto.gov/patents/announce/pta_wyeth.pdf.

Patentee would not qualify for reconsideration in light of the conditions outlined in the notice. Patentee's request was filed approximately 2 ½ years after the issue date of the patent and accordingly is not eligible for Office review of the determination.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is **dismissed** as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

Telephone inquiries specific to this matter should be directed to Maria Nuzzolillo, Legal Advisor, at (571) 271-8150, or the undersigned at 571-271-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Associate Commissioner
for Patent Examination Policy

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, DC 20231
www.USPTO.gov

WAK

In re Application of
Blankenbeckler et al.
Serial Number: 10/107,854
Filed: March 25, 2002
For: A Double Sided Hybrid Optical Disk With Surface Topology

DECISION
ON
PETITION

This is in response to the request filed December 24, 2002, requesting permission for withdrawal as attorney from the above-identified application and change of correspondence address.

The Request is **Denied**.

The attorney requesting the withdrawal is no longer of record in the file. A previous request filed by the attorney on November 21, 2002 for withdrawal as attorney from the above-identified application and change of correspondence address was granted.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Skjerven Morrill LLP
25 Metro Drive
Suite 700
San Jose, CA 95110

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-7-06

TO SPE OF : ART UNIT 1653

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/107871 Patent No.: 7019406

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 check Inventors

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The correction of inventorship is appropriate

KCC 10-29-07

Cecilia Tsang — SPE

1654 — Art Unit

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Paper No. 7

MISHRILAL L. JAIN
11620 MASTERS RUN
ELLICOTT CITY, MD 21042

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MAR 11 2004

OFFICE OF PETITIONS

In re Application of :
Padmanabha Padmapriya Banada, et al. :
Application No. 10/107,879 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. Banadaetal :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed May 2, 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 3, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

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

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA, PA 19106-2399

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OCT 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Lyn Hughes, et al. :
Application No. 10/107,898 : ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. A01212 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 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 October 22, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 23, 2004.

Receipt is acknowledged of the Amendment filed September 2, 2004, with the instant petition.

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 1615 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UTAH 84111

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JUL 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Peizheng Zhou et al :
Application No. 10/107,915 :
Filed: March 27, 2002 :
Attorney Docket No. HT-22

NOTICE

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

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

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

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

This file is being forwarded to the Publishing Division.

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

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LARSON NEWMAN ABEL
POLANSKY & WHITE, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN, TX 78730

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MAY 04 2007

OFFICE OF PETITIONS

In re Application of :
Sloan CHILDERS :
Application No. 10/107,917 : DECISION ON PETITION
Filed: March 27, 2002 : TO WITHDRAW
Attorney Docket No. 13048:20 : 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 28, 2005.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Larson, Newman, Abel, Polansky & White, LLP has been revoked by the assignee of the patent application on March 29, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April Wise
Petitions Examiner
Office of Petitions

cc: MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of :
Sloan Childers, et al. :
Application No. 10/107,917 : DECISION ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. 18133-290 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 28, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 29, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1020 extension of time fee submitted with the petition on March 29, 2006 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 April Wise at 571-272-1642.

This application is being referred to Technology Center AU 2145 for appropriate action by the Examiner in the normal course of business on the reply received March 29, 2006.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No. 13

John M. Janeway
155-108th Avenue N.E., Ste. 350
Bellevue, WA 98004-5973

MAY 17 2004

In re Application of:	:	
John C. Bedini	:	DECISION ON PETITION TO
Application No. 10/107,925	:	WITHDRAW HOLDING OF
Filed: March 26, 2002	:	ABANDONMENT
Attorney Docket No: 1885-2-3	:	

This is a response to the communication filed February 17, 2004 and supplemented, via facsimile transmission on April 15, 2004. The communication is being treated as a petition to withdraw holding of abandonment under 37 C.F.R. 1.181. A petition fee is not required.

A review of the file record indicates that a Notice of Non-compliant Amendment was mailed on June 04, 2003, setting a shortened statutory period for response to one month from the mail date thereof. A Notice of Abandonment was mailed on February 06, 2004.

The petition to withdraw the holding of abandonment is granted.

Petitioner asserts that on July 01, 2003, a response to the non-compliant amendment was mailed in accordance with 37 C.F.R. § 1.8(a) to the United States Patent and Trademark Office (PTO). To support this assertion, petitioner has provided a copy of the response to the Notice of Non-compliance and a statement from the person who signed the Certificate of Transmission, Mr. Tuddy Denby. The Office action includes a proper Certificate of Transmission under 37 C.F.R. § 1.8(a) and the statement attests on a personal knowledge basis that the above identified response was transmitted, via facsimile, in accordance with 37 C.F.R. § 1.8(a) to the PTO on July 01, 2003.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 C.F.R. § 1.8(b) provides for accepting a correspondence as being timely filed if it was mailed or transmitted in accordance with 37 C.F.R. § 1.8(a). As such the response filed with the instant petition, is being accepted as having been filed on July 01, 2003, in response to the Notice of Non-compliance mailed June 04, 2003.

The request meets the conditions of 37 C.F.R. § 1.8(b) to establish the previous timely transmission of the response. The application is not abandoned in fact.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. From there, the application will be forwarded to the examiner for appropriate action.

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

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

RKS/lmm

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MILBANK TWEED HADLEY & MCCLOY
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

COPY MAILED

JUL 13 2007

OFFICE OF PETITIONS

In re Application of :
Anno, et al. :
Application No. 10/107,928 : ON PETITION
Filed: May 7, 2007 :
Attorney Docket No. 35061-03300 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF HOLDING OF ABANDONMENT", filed May 7, 2007, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

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. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed January 11, 2006. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed a response on April 11, 2006, but it did not *prima facie* place the application in condition for allowance. No further reply with an extension of time having been received, the above-identified application became abandoned on April 12, 2006. A Notice of Abandonment was mailed on April 13, 2007.

37 CFR 1.135(b), the regulation relevant to the abandonment of this application, provides that (A) the admission of, or refusal

to admit, any amendment after final rejection, or any related proceedings, will not operate to save the application from abandonment; and (B) the admission of, or refusal to admit, any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. It is the applicant's responsibility to take the necessary action in an application under a final Office action to provide a complete reply under 37 CFR 1.113. 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal.

Applicant should have ensured that the April 11, 2006 response had been entered or applicant should have filed either a Request for Continued Examination (RCE), continuing application, or Notice of Appeal.

The facts in this instance support the conclusion that the abandonment was unintentional. Accordingly, petitioner may wish to revive the application pursuant to 37 CFR 1.137(b). 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), currently $750 for a small entity; 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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MILBANK TWEED HADLEY & MCCLOY
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

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SEP 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Anno, et al.	:	
Application No. 10/107,928	:	ON PETITION
Filed: May 7, 2007	:	
Attorney Docket No. 35061-03300	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 26, 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. 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 timely file a proper reply to the final Office action mailed January 11, 2006. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed a response on April 11, 2006, but it did not *prima facie* place the application in condition for allowance. No further reply with an extension of time having been received, the above-identified application became abandoned on April 12, 2006. A Notice of Abandonment was mailed on April 13, 2007. Applicant filed a petition to withdraw the holding of abandonment on May 7, 2007. However, the petition was dismissed in a decision mailed on July 13, 2007.

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); 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 instant petition does not meet requirement (1) above. The Examiner has indicated that the Amendment submitted with the petition on July 26, 2007 does not *prima facie* place the application in condition for allowance.

Accordingly, on renewed petition, Applicant should submit a Notice of Appeal, Request for Continued Examination, or a continuing application.

Receipt of the $1,500 petition fee is acknowledged. No additional petition fee is due on renewed petition.

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 decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

DATE 10/107,928 APPLICATION NUMBER 10/107,928

DOC CODE PET.DEC.TC 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

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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MILBANK TWEED HADLEY & MCCLOY
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of :
Anno, et al. :
Application No. 10/107,928 : ON PETITION
Filed: May 7, 2007 :
Attorney Docket No. 35061-03300 :

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed September 28, 2007.

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

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed January 11, 2006. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed a response on April 11, 2006, but it did not *prima facie* place the application in condition for allowance. No further reply with an extension of time having been received, the above-identified application became abandoned on April 12, 2006. A Notice of Abandonment was mailed on April 13, 2007. Applicant filed a petition to withdraw the holding of abandonment on May 7, 2007. However, the petition was dismissed in a decision mailed on July 13, 2007. Applicant filed a petition to revive under 37 CFR 1.137(b) on July 26, 2007. However, the petition was dismissed in a decision mailed on September 12, 2007.

With the instant petition, petitioner has submitted the required reply to the final Office action in the form of an RCE (together with a submission). The petition fee and the statement of unintentional delay were previously submitted on July 26, 2007.

The matter is being forwarded to Group Art Unit 2871 for consideration of the RCE, filed September 28, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES S. TAK
ASSISTANT LABORATORY COUNSEL
LAWRENCE LIVERMORE NATIONAL LABORATORY
P.O. BOX 808, L-703
LIVERMORE, CA 94551

COPY MAILED

JAN 10 2007

OFFICE OF PETITIONS

In re Application of :
Benett et al. :
Application No. 10/107,933 : ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. IL-10842 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 31, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

The Notice of Appeal filed August 31, 2006, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 1700 for further processing.

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

Liana Walsh
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. 12

Robert C. Klinger
Jackson Walker LLP
2435 North Central Expressway
Suite 600
Richardson, TX 75080

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MAR 2 0 2003

OFFICE OF PETITIONS

In re Application of :
Paul Charles, et al. :
Application No. 10/107,938 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. 101950-00095 :

This is in response to the "Petition Under 37 CFR 1.47(a), filed March 11, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

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

Petitioner states that a request was made to the non-signing inventor, Paul Charles, to sign a new declaration for this application, to which no response from Mr. Charles was made. Petitioner contacted the second inventor, Walter Peschke, who stated that Mr. Charles would not be cooperative in signing the new declaration.

Although it appears that Charles refuses to sign the application, it is unclear whether he received a copy of the application papers. MPEP 409.03(d) in pertinent part states:

> "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 non-signing inventor, or if the non-signing inventor is represented by counsel, to the address of record of the non-signing inventor's attorney."

Petitioner must supply a copy of the application papers to Mr. Charles as required. Upon the filing of a Request for Reconsideration, petitioner must demonstrate that a *bona fide* attempt was made to present the application papers (specification, including claims, drawings and oath or declaration) to the non-signing inventor. If there is an express written refusal to sign the declaration, a copy of the document evidencing a refusal should be submitted to the USPTO. If the non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration and any documentary evidence to support facts alleged in the affidavit or declaration should be submitted with the reconsideration request.

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

By Express Mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By First Class Mail:	United States Patent and Trademark Office P. O. Box 2327, Mail Stop DAC Arlington, VA 22202
By FAX:	(703) 308-6916 Attn: Office of Petitions
By HAND:	2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 14

Robert C. Klinger
Jackson Walker LLP
2435 North Central Expressway, Suite 600
Richardson, TX 75080

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OCT 15 2003

OFFICE OF PETITIONS

In re Application of :
Paul Charles, et al. :
Application No. 10/107,938 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. 101950-00095 :

This is in response to the petition under 37 CFR 1.47(a), filed May 13, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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

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

The application file is being forwarded to Technology Center 2100.

Telephone inquiries regarding this decision should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Paul Charles
10931 E. Laurel Lane
Scottsdale, AZ 85259

COPY MAILED

OCT 15 2003

OFFICE OF PETITIONS

In re Application of
Paul Charles; Walter Peschke
Application No. 10/107,938
Filed: March 27, 2002
For: SYSTEM AND METHOD FOR EXPANSION OF A COMPUTER

Dear Mr. Charles:

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

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

Telephone inquiries regarding this communication should be directed to Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Frances Hicks

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

cc: Robert C. Klinger
Jackson Walker LLP
2435 North Central Expressway, Suite 600
Richardson, TX 75080

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)
6,615,270	2003-09-02	10/107,945	2002-03-26	MNKYP004A

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Eric Justin Gould Bear, MONKEYmedia, Inc./	Date (YYYY-MM-DD)	2008-10-07
Name	Eric Justin Gould Bear, MONKEYmedia, Inc.		
Enter Reel and Frame Number		Remove	
Reel Number	010162	Frame Number	0070
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES 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. 6615270
Issue Date: September 2,2003
Application No. 10107945
Filed: March 26,2002
Attorney Docket No. MNKYP004A

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

This is a decision on the electronic petition, filed October 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 7,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 6

ELIZABETH E. NUGENT
CHOATE HALL & STEWART
53 STATE STREET
BOSTON, MA 02109

COPY MAILED

FEB 10 2003

OFFICE OF PETITIONS

In re Application of :
Fred Moses :
Application No. 10/107,949 :
Filed: March 27, 2002 :
Attorney Docket No. 2003428-0016 :

NOTICE

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

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

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

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

This file is being forwarded to Technology Center 2100.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOLER& LARSON & ABEL
5000 PLAZA ON THE LAKE STE 265
AUSTIN, TX 78746

COPY MAILED
MAY 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Sloan K. Childers et al	:	
Application No. 10/107,962	:	DECISION ON PETITION
Filed: March 27, 2002	:	TO WITHDRAW
Attorney Docket No. 1017-0022	:	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 28, 2005.

The petition is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. 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.

This application is being referred to Technology Center AU 2145.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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

Holland & Knight
131 South Dearborn, 30th Floor
Chicago, IL 60603

COPY MAILED

JAN 05 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ronald S. Nietupski :
Application No. 10/107,980 :
Filed: March 28, 2002 :
Attorney Docket No. 072531.00009 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed February 12, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 13, 2003.

The application file is being forwarded to Technology Center AU 1615 for further processing.

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

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

SPE: J. Chan

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/06

TO SPE OF : ART UNIT 2613

6983020

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/102,981 Patent No.: ~~[illegible]~~

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: _____

Mehrdad Pastoun — **SPE**

2621 — **Art Unit**

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Page 1 of 1

PATENT NO. : 6,983,020 B2

APPLICATION NO.: 10/107,981

ISSUE DATE : Jan. 3, 2006

INVENTOR(S) : Christiansen

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:

References Cited
U.S. PATENT DOCUMENTS
6,338,086 05/2001 Wahl et al. 606/87

approved
TV
07/28/06

MAILING ADDRESS OF SENDER (Please do not use customer number below):

John D. Lanza
Choate, Hall & Stewart, LLP
Two International Place, Boston, MA 02110

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.

JUN 1 2006

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OFFICE OF THE DIRECTOR
TC 3600

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, NY 11791

In re application of
Stephen Edward Tyrer
Application No. 10/107,996
Filed: March 27, 2002
For: GOLF CART REARWARDLY EXTENDING CANOPY COVER

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on January 26, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED as Moot**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in this application is not approved as moot because a revocation of power of attorney to Michael T. York and a new power of attorney to the attorneys of HOFFMANN & BARON, LLP customer number 23869 was submitted to the United States Patent and Trademark Office on February 04, 2005. The power of attorney therefore has already been withdrawn as per the Notice to that effect mailed March 02, 2005.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 03/15/05

CC: Michael Timothy York
1511 Nathan's Trail
Chelsea, MI 48118

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ALEXANDRIA, VA 22313-1450
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MAY - 2 2005

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, NY 11791

In re Application of
Stephen Edward Tyrer
Application No. 10/107,996
Filed: March 27, 2002
For: GOLF CART REARWARDLY EXTENDING CANOPY COVER

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(a) filed in the United States Patent and Trademark Office (USPTO) on February 11, 2005.

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

☒ Postcard receipt being dated July 1, 2004.

☐ 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 _____ and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☐ Originally sent response has been found in the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

SNM/jwk: 4/2505

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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MAY - 2 2005

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, NY 11791

In re Application of :
Stephen Edward Tyrer :
Application No. 10/107,996 :
Filed: March 27, 2002 :
For: GOLF CART REARWARDLY EXTENDING CANOPY COVER :

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(a) filed in the United States Patent and Trademark Office (USPTO) on February 11, 2005.

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

☒ Postcard receipt being dated July 1, 2004.

☐ 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 _____ and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☐ Originally sent response has been found in the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

SNM/jwk: 4/2505

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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AUG 15 2003

OFFICE OF PETITIONS

Paper No. 7

LEARY & ASSOCIATES
3900 NEWPARK MALL RD.
THIRD FLOOR, SUITE 317
NEWARK, CA 94560

In re Application of
Edwards, et al.
Application No. 10/108,062
Filed: March 26, 2002
Attorney Docket No.: LIP1090DV

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 21, 2002 for failure to timely file a proper response to the non-final Office action mailed June 20, 2002. The non-final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely obtained. Notice of Abandonment was mailed January 14, 2003.

This application will be forwarded to Technology Center 2600 for further processing.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

SPE D. Smith

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/108,103

Paper No.: _____

DATE : 6/10/05

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction on Patent No.: 6767007

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

Lamonte Newsome
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:

C. SCOTT BUSHEY
PRIMARY EXAMINER
GROUP ~~1300~~ 1724
C Scott Bushey 6-14-05

D-Smith
SPE
DUANE SMITH
SUPERVISORY PATENT EXAMINER

1724
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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OFFICE OF PETITIONS

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

In re Application of
Selena CHAN, et al
Application No. 10/108,128
Filed: March 26, 2002
Attorney Docket No. 070702007600

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 23, 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 Peter J. Davis on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents of record 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 assignee at the first copied address below until otherwise properly notified by the applicant.

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

There is an outstanding Office action mailed March 1, 2007 that requires a reply by the applicant.

April Wise
Petitions Examiner
Office of Petitions

cc: INTEL CORPORATION
2200 MISSION COLLEGE BLVD.
SANTA CLARA, CA 95052

cc: RAJ S. DAVE, PH.D.
DARBY & DARBY, P.C.
1500 K STREET, N.W.
SUITE 250
WASHINGTON, D.C. 20005-1714

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/108,128	03/26/2002	Selena Chan	070702007600

CONFIRMATION NO. 8588

OC000000023886483

Raj S. Dave
Morrison & Foerster LLP
1650 Tysons Blvd., Suite 300
McLean, VA 22102

Date Mailed: 05/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/23/2007.

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

Diane Goodwyn

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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Paper No.

Jonathan S. Miller
BLAKELY, SOKOLOFF, TAYLOR &
TAYLOR LLP
12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025

MAILED

JAN 19 2005

Technology Center 2100

In re Application of: Elliot A. Gottfurcht, et.al.
Application No. 10/108,147
Filed: March 25, 2002
For: METHOD TO ADVERTISE AND SEARCH ON TELEVISION FOR WEB CONTENT USING A SIMPLIFIED INTERFACE

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 January 4, 2005, 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 copy of the birth certificate that the applicant, Elliot A. Gotfurcht, is over sixty five (65) years of age.

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

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

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Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No.

Thomas E. Ciotti
MORRISON & FOERSTER LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

MAILED

DEC 3 0 2005

TECHNOLOGY CENTER 2100

In re Application of:
Eillot A. Gottfurcht.
Application No. 10/108,147
Filed: March 25, 2002
For: METHOD TO ADVERTISE AND SEARCH ON TELEVISION FOR WEB CONTENT USING A SIMPLIFIED INTERFACE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed December 9, 2005.

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

The request filed December 9, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Scott W. Doyle, Esq.
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20038

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Paper No. 7

PAUL H. GINSBURG
PFIZER, INC.
150 EAST 42ND STREET
NEW YORK, NY 10017-5612

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NOV 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Stephen Paul Gibson, et al. :
Application No. 10/108,161 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. 15404Z :

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 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 Restriction Requirement mailed April 10, 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 on May 12, 2003.

The application file is being forwarded to Technology Center 1600, Art Unit 1625 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

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

GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939

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AUG 0 8 2002

OFFICE OF PETITIONS

In re Application of :
Leary et al. :
Application No. 10/108,164 : DECISION ON
Filed: March 26, 2002 : PETITION
Attorney Docket No. P50682C1 :

This is a decision on the petition filed July 1, 2002, to accord the above-identified application a filing date of March 26, 2002.

The petition under 37 CFR 1.53 is **dismissed**.

On March 26, 2002, the application was deposited.

On May 2, 2002, the Office of Initial Patent Examination mailed a Notice stating that the specification, claims, and declaration were missing and that a filing date would be accorded upon receipt of the missing items.

In response, the present petition alleges that the missing papers were filed on March 26, 2002.

The Utility Patent Application Transmittal sheet incorporated by reference the entire disclosure of the parent application.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the specification, abstract, and claims were were present in the Office on March 26, 2002, albeit in the file of another application, i.e., application No. 10/108,164. Therefore, on petition, the application may be accorded the requested filing date of March 26, 2002.

The instant petition cannot be granted because a copy of the specification, drawings and claims to used for examination purposes has not been provided.[1]

Since relief will be proper upon receipt of the copies of the missing items, it is not necessary to review the sufficiency of the copy of the postcard receipt. However, petitioner may wish to note MPEP 503 which states (emphasis added),

> The identifying data on the postcard should include . . . **number of pages** of specification, claims (for nonprovisional applications), and sheets of drawing; . . . 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

[1] The copy should be a true and exact copy of the specification, drawings, and claims submitted in the parent application. The primary examiner is expected to compare the specification to the disclosure of the parent application in order to verify that the specification and drawings are, in fact, parts of the disclosure of the prior application.

> Trademark Office (USPTO). . . . The postcard should also identify the type of paper being filed . . . **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).

An oath or declaration is not necessary for a filing date and may be mailed in compliance with 37 CFR 1.8. Petitioner has made an acceptable showing under 37 CFR 1.8(b) that the declaration was submitted on March 26, 2002, and therefore a surcharge will not be necessary for the late filing of the declaration.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939

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OCT 0 3 2002

OFFICE OF PETITIONS

In re Application of
Leary et al.
Application No. 10/108,164
Filed: March 26, 2002
Attorney Docket No. P50682C1

DECISION ON
PETITION

This is a decision on the renewed petition filed September 13, 2002, to accord the above-identified application a filing date of March 26, 2002.

The petition under 37 CFR 1.53 is **granted**.

On March 26, 2002, the application was deposited.

On May 2, 2002, the Office of Initial Patent Examination mailed a Notice stating that the specification, claims, and declaration were missing and that a filing date would be accorded upon receipt of the missing items.

In response, the present petition alleges that the missing papers were filed on March 26, 2002.

The Utility Patent Application Transmittal sheet incorporated by reference the entire disclosure of the parent application.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the specification, abstract, and claims were were present in the Office on March 26, 2002, albeit in the file of another application, i.e., application No. 09/424,348. Therefore, on petition, the application may be accorded the requested filing date of March 26, 2002.

The copy of the specification, drawings and claims submitted with the petition will be used for examination purposes.

It should be noted that the copy of the application papers from 09/424,348 are a copy of a PCT application including a PCT cover sheet. The pages have the heading "WO 99/01464 PCT/US98/13733." A copy of these papers has been found in the file. The Office is not sure if these papers were received with the original application. It is very possible that the Office misinterpreted the intent of the papers due to the way the papers were labeled. There was no clear indication of petitioner's intent.[1]

[1] In the future, if petitioner wishes to use a PCT application as a specification for another application, he may wish not to include the cover sheet and may wish to delete the heading on every page (i.e. PCT/US97/20989). The cover sheet and heading convey an intent that the pages are included solely as copies of the PCT application and not as new pages to be given a

The petition fee was charged a second time when the instant, renewed petition was filed. Therefore, $130 will be credited to petitioner's deposit account.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 26, 2002, using the application papers filed on March 26, 2002, and the copy of the specification, drawings, and claims filed on September 13, 2002. OIPE should note that an oath or declaration is not necessary for a filing date and may be mailed in compliance with 37 CFR 1.8. Petitioner has made an acceptable showing under 37 CFR 1.8(b) that the declaration was submitted on March 26, 2002, and therefore a surcharge will not be necessary for the late filing of the declaration.

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

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

---

new application number. If papers are filed in the instant application with a number in the header, then the number should be the instant application number and not the number of a parent or grandparent application.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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ARRIS Group c/o Stoel Rives LLP
201 S. Main St., Ste 1100
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: James A. Billmaier	: DECISION ON REQUEST FOR
Patent Number	: 7594246	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/108,178	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/27/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1759** 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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Harness, Dickey & Pierce, P.L.C.
P. O. Box 828
Bloomfield Hills, MI 48303

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AUG 17 2005

OFFICE OF PETITIONS

In re Patent No. 6,849,861 :
Issue Date: February 1, 2005 :
Application No. 10/108,180 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. 9319G-000348 :

This is a decision on the petition under 37 CFR 1.182, filed March 29, 2005, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is granted.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3223. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Publishing Division at (703) 305-8283.

A copy of this decision is being forwarded to the Publishing Division for issuance of duplicate Letters Patent.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax – (703) 746-4642

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Paper No. 10

HELEN C. LOCKHART
C/O WOLF GREENFIELD & SACKS PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

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OFFICE OF PETITIONS

In re Application of :
Chi-Pong Kwan et al :
Application No. 10/108,195 : NOTICE
Filed: November 4, 2002 :
Attorney Docket No. M00656.70076.US :

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

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

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

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

This file is being forwarded to Technology Center AU 1632.

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

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Paper No. None

Morris E. Cohen
Suite 217
1122 Coney Island Avenue
Brooklyn NY 11230

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SEP 2 1 2005

OFFICE OF PETITIONS

In re Application of
Nouri E. Hakim
Application No. 10/108,229
Filed: March 27, 2002
Attorney Docket Number: 4009.009.401
Title: PACIFIER AND BABY BOTTLE NIPPLE SYSTEMS

DECISION ON PETITIONS UNDER 37 C.F.R. §§1.78(A)(3) and 1.78(A)(6)

This is a decision on the petitions which are being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 20, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of nonprovisional application number 09/790,254, filed March 21, 2001, nonprovisional application number 09/271,395, filed March 17, 1999, and provisional application number 60/097,547, filed August 21, 1998, as set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Additionally, the intermediate application 09/271,395, filed March 17, 1999, was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/097,547, which was filed on August 21, 1998, 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) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the above-noted, prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

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

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

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.

This application is being forwarded to Technology Center Art Unit 3731 for appropriate action on the amendment submitted June 20, 2003, including consideration by the examiner of the claim under 35 U.S.C. § 120 for the benefit of the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

ATTACHMENT : Corrected Filing Receipt

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LONG BEACH, CA 90801-5615

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OFFICE OF PETITIONS

In re Application of	:	
Macoviak, et al.	:	
Application No. 10/108,245	:	ON PETITION
Filed: March 26, 2002	:	
Attorney Docket No. CARDE.60808	:	

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**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed August 4, 2004. Accordingly, this application became abandoned on November 5, 2004. A Notice of Abandonment was mailed on February 24, 2005.

The file is being forwarded to Technology Center 3700 for review of the amendment filed August 26, 2005, *in due course*.

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

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

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WILLIAMS MORGAN & AMERSON
SUITE 1100
10333 RICHMOND
HOUSTON, TX 77040

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OFFICE OF PETITIONS

In re Application of	:	
Geoffrey S. Strongin et al	:	
Application No. 10/108,253	:	ON PETITION
Filed: March 27, 2002	:	
Attorney Docket No. 2000.055900	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 15, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 16, 2006.

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

This matter is being referred to Technology Center AU 2134 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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TECHNOLOGY CENTER 3600

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

In re application of : **DECISION ON PETITION**
Donald Paul Abbs et al. : **TO MAKE SPECIAL**
Application No. 10/108,262 : **(INFRINGEMENT)**
Filed: March 28, 2002 :
For: ANNUITY HAVING INTEREST RATE COUPLED TO A REFENCED INTEREST RATE

This is a decision on the petition under 37 C.F.R § 1.102(d) filed March 11, 2004 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 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 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 March 11, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on February 27, 2003.

SUMMARY: Petition to Make Special **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/mjz: 3/29/04

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TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

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NOV 20 2006

OFFICE OF PETITIONS

In re Application of :
Yui et al. :
Application No. 10/108,298 :
Filing or 371(c) Date: 03/28/2002 :
Patent No.: 7041310 :
Issue Date: 05/09/2006 :
Attorney Docket No. :
401616/SUBARU :

This is a decision on the "Request Pursuant to 37 CFR 3.81(b)"[1], filed August 3, 2006, requesting a change in the name of the assignee after payment of the issue fee. The delay in treating this petition is regretted.

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Attorney
Office of Petitions

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

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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MAILED #4

JUN 12 2002

Office of the Director
Group 3600

Ronald V. Davidge
Suite 514
3300 University Drive
Coral Springs, FL 33065

In re Application of
N. Delfino
SERIAL NO: 10/108,315
FILED: March 28, 2002
FOR: NARROW PAPER TOWEL ROLL AND HOLDER

:DECISION ON PETITION
:TO MAKE APPLICATION
:SPECIAL (APPLICANTS AGE)

This is a decision on your petition submitted on March 28, 2002, to make the above referenced application special on the basis that applicant is over 65 years of age.

The petition has been found to comply with all requirements of section 708.02, part IV of the Manual of Patent Examining Procedures, and will be **GRANTED** for that reason.

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

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

The application is being forwarded to the examiner for accelerated examination consistent with the provisions of section 708.02 of the MPEP.

Randolph A. Reese

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

AM: 06-10-02

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Barry L. Kelmachter
BACHMAN & LaPOINTE, P.C.
Suite 1201
900 Chapel Street
New Haven CT 06510-2802

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OFFICE OF PETITIONS

In re Application of :
Bolger, et al. : DECISION ON PETITION
Application No. 10/108,319 :
Filed: March 27, 2002 :
Docket No.: 02-243 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned November 24, 2005 for failure to timely reply to the final Office action mailed August 23, 2005. The final Office action set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed June 28, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

The correspondence address indicated on the petition differs from that contained in the official record. This decision is being mailed as a courtesy. However, all future correspondence concerning this application will be directed to the correspondence address contained in the record until appropriate instruction is received to the contrary.

This application is being forwarded to Technology Center 3700 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

CC: Barry L. Kelmachter
BACHMAN & LaPOINTE, P.C.
1201 Chapel Street
Suite 1201
New Haven, CT 06510

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CLOUTIER & ENGLE, PLLC
ATTN: PRIYA SINHA CLOUTIER
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SUITE 260
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In re Application of :
James W. Masten, Jr. :
Application No. 10/108,321 : DECISION ON PETITION
Filed: March 28, 2002 : TO WITHDRAW
Attorney Docket No. 079-004-007 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 6, 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. 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 practitioner was not appointed by customer number. In order to withdraw by customer number attorney must be 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.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JAMES MASTEN
8528 14TH AVENUE, NW
SEATTLE, WA 98118

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SLATER & MATSIL LLP
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SUITE 1000
DALLAS, TX 75252

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OFFICE OF PETITIONS

In re Application of :
Zhijian Lu :
Application No. 10/108,359 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 2001 P 14624 US :

This is a decision on the petition, filed June 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 26, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1756 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Rossi, et al. : LETTER REGARDING PTA
Application No. 10/108,364 :
Filed: March 29, 2002 :
Atty. Dkt. No.: 09245.0213 :

This letter is in response to the "NOTICE OF POSSIBLE ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT" filed April 27, 2009. The Office thanks patentees for their good faith and candor in bringing this to our attention. No fee is due in connection with this matter.

Applicants indicate that while the Notice of Allowance sets forth a patent term adjustment of 293 days, applicants' own calculation is 250 days. Applicants request that the PTO identify how it arrived at the adjustment of 293 days.

The calculation of patent term adjustment has been reviewed and no error has been detected.

In accordance with 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1), an adjustment of 340 days can be attributed to the Office in connection with the mailing of the restriction requirement on May 3, 2004. The adjustment commenced May 30, 2003 and ended May 3, 2004.

In accordance with 37 C.F.R. §§ 1.702(a)(2) and 1.703(a)(2), an adjustment of 120 days can be attributed to the Office in connection with the mailing of the final rejection on February 5, 2008. The adjustment commenced October 9, 2007 and ended February 5, 2008.

The adjustment totaling 460 days is properly reduced a total of 167 days in accordance with 37 CFR 1.704.

The adjustment is reduced 35 days in accordance with 37 CFR 1.704(b) in connection with the response filed January 13, 2005. The reduction commenced December 10, 2004 and ended January 13, 2005.

The adjustment is reduced 32 days in accordance with 37 CFR 1.704(b) in connection with the request for continued examination (RCE) filed August 22, 2005. The reduction commenced July 22, 2005 and ended August 22, 2005.

The adjustment is reduced 91 days in accordance with 37 CFR 1.704(b) in accordance with 37 CFR 1.704(b) in connection with the RCE filed August 23, 2006. The reduction commenced May 25, 2006 and ended August 23, 2006.

The adjustment is reduced nine days in accordance with 37 CFR 1.704(c)(8) in connection with the response filed September 1, 2006. The reduction commenced August 24, 2006 and ended September 1, 2006.

Accordingly, the patent term adjustment remains 293 days, as set forth in the Determination of Patent Term Adjustment mailed January 28, 2009.

If applicants are still of the belief that an error exists in the calculation of patent term adjustment, applicants are requested to seek reconsideration of the instant letter, setting forth with specificity the nature of the alleged miscalculation in the adjustment. To avoid further delay in the issuance of the patent, applicants may wait until after the patent issues to seek reconsideration.

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

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forwarded to the Division of Data Management for issuance of a patent.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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VENABLE LLP
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WASHINGTON DC 20045-9998

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DEC 28 2005

OFFICE OF PETITIONS

In re Application of :
Michael Stanfield :
Application No. 10/108,377 : DECISION ON PETITIONS
Filed: March 29, 2002 :
Attorney Docket No. 27993-178938 :

This is a decision on the petition under 37 CFR 1.181, filed December 24, 2003, and again on December 21, 2004, to withdraw the Notice of Abandonment mailed on December 16, 2003, as being sent in error.

This is also a decision on the petition under 37 CFR 1.137(f), filed October 25, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

On April 19, 2002, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing. The Notice set a two-month extendable period for reply. In the apparent absence of a timely filed response, the Office mailed a Notice of Abandonment on December 16, 2003.

On December 24, 2003, and again on December 21, 2004, petitioner submitted the present petition under 37 CFR 1.181. Petitioner asserts that petitioner filed a timely and proper response to the Notice to File Missing Parts. In support of the petition, petitioner submits a copy of a postcard receipt date-stamped June 19, 2002, acknowledging receipt of a response in the form of an executed declaration and a $130.00 surcharge. Copies of the executed declaration, an assignment and coversheet, and an invoice for a check in the amount of $170.00 accompany this petition.

The original correspondence filed was not matched with the file at the time the Notice of Abandonment was mailed and cannot be located. However, Section 503 of the MPEP states, "[a] postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by

the USPTO." Accordingly, it is concluded that the response was timely filed in the USPTO but was not matched with the application file.

For the reasons stated above, the petition is **granted** to the extent that the Office erroneously mailed a Notice of Abandonment on December 16, 2003. However, the Office notes that the application is abandoned for failure to timely notify the 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).

PETITION UNDER 37 CFR 1.137(f)

Petitioner states that the present nonprovisional application is the subject of an application filed in another country, or under a multinational international treaty that requires publication of the applications eighteen months after filing. Petitioner further states that petitioner subsequently filed application, PCT/US02/15358, on May 16, 2002. However, the USPTO was unintentionally not notified of this filing within forty-five days subsequent to the filing of the subject application. Accordingly, 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 eighteen months after filing.

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

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

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

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

The present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, petition is granted. The failure to timely notify the USPTO of a foreign or international filing within forty-five 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 $1,500.00 petition fee will be charged to petitioner's Deposit Account as requested.

This matter is being referred to the Office of Initial Patent Examination (OIPE) for further processing. OIPE is directed to rescind the request for nonpublication of the application, schedule a projected publication date, and mail petitioner a corrected filing receipt reflecting such.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUL 26 2006

OFFICE OF PETITIONS

In re Application of :
Sawa et al. :
Application No. 10/108,396 :
Filed: March 29, 2002 : ON PETITION
Attorney Docket Number: 826.1813 :

This is a decision on the Petition to Expunge Under 37 CFR 1.59, filed January 12, 2006, requesting that the Office expunge assignment documents and a transmittal, revocation of power of attorney and new power of attorney.

Applicable Law, Rules and MPEP

Sections 323.01(a) through (c) of the MPEP provide a method for correction of an improperly recorded assignment. In this regard, an applicant seeking to expunge assignment records must demonstrate that the procedures provided in sections (a) through (c) will not provide adequate relief, and that the integrity of the assignment records will not be affected by granting the petition. See MPEP 323.01(d).

Here, Applicant has failed to demonstrate that the procedures provided in sections (a) through (c) will not provide adequate relief.

Regarding the request to expunge the transmittal, revocation of power of attorney and new power of attorney, Applicant is advised that Office records reflect the above-identified Law Firm, associated with customer number 21171, as the Attorney(s) and correspondence address of record. As provided in 37 CFR 1.59(b), "[a]ny petition to expunge information from an application must include the fee set forth in § 1.17(g) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a

notice granting the petition for expungement will be provided. Here, Applicant filed a Power of Attorney and Change of Correspondence Address on December 27, 2005, correcting the Attorney(s) of record and correspondence address. As such, Applicant has failed to establish to the satisfaction of the Director that expunging the information is appropriate.

Accordingly, the petition is **dismissed**.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

By hand: Customer Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAUL S. MADAN
MADAN MOSSMAN & SRIRAM PC
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057-1130

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APR 0 5 2005

OFFICE OF PETITIONS

In re Application of :
James C. Jackson :
Application No. 10/108,402 : DECISION GRANTING PETITION
Filed: March 28, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 584-22420-US :

This is a decision on the petition, filed April 1, 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 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 3663 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

MAILED

MAR 29 2004

Office of the Director
Group 3600

MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE IL 60048-5343

In re Application of
Thomas Michael King et al.
Application No. 10/108,409
Filed: March 28, 2002
For: TIME DETERMINATION IN SATELLITE POSITIONING SYSTEM RECEIVERS AND METHODS THEREOF

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdrawal the Holding of Abandonment filed in the U.S. Patent and Trademark Office (USPTO) on January 30, 2004.

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

☐ Postcard receipt being dated_____.

☒ USPTO return facsimile receipt dated July 30, 2003 which identifies the application by serial number and the type of Response that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the amendment filed with the petition, then to the examiner for prompt action on the response.

KJD/mjz: 3/22/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 11

DR. MARK FRIEDMAN
C/O BILL POLKINGHORN
DISCOVERY DISPATCH
9003 FLORIN WAY
UPPER MARLBORO, MD 20772

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MAY 0 4 2004

OFFICE OF PETITIONS

In re Patent No. 6,668,336 :
Issue Date: December 23, 2003 :
Application No. 10/108,410 : NOTICE
Filed: March 29, 2002 :
Attorney Docket No. 246/120 :

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©) 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 Files Repository.

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

POSZ & BETHARDS, PLC
11250 ROGER BACON DRIVE
SUITE 10
RESTON VA 20190

COPY MAILED

MAR 07 2005

OFFICE OF PETITIONS

In re Patent No. 6,797,588 :
Issue Date: September 28, 2004 :
Application No. 10/108,443 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 01-276 :

This is a decision on the petition filed October 28, 2004, which is being treated as a petition 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 and to correct the third inventor's address.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

A corrected filing receipt with the correction of the third inventor's name is attached.

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

Karen Creasy

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

Attachment: Corrected Filing Receipt

[1]See 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

In re Patent No. 6872539
Issue Date: March 29,2005
Application No. 10108535
Filed: March 27,2002
Attorney Docket No. ROT-102 C-DIV

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

This is a decision on the electronic petition, filed February 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 February 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.

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)
6872539	2005-03-29	10108535	2002-03-27	

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	/boris rotman/	Date (YYYY-MM-DD)	2010-02-26
Name	m. boris rotman		

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. 6656441
Issue Date: December 2,2003
Application No. 10108556
Filed: March 29,2002
Attorney Docket No. Q69158

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

This is a decision on the electronic petition, filed February 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 February 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.

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)
6656441	2003-12-02	10108556	2002-03-29	Q69158

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	/DJCushing/	Date (YYYY-MM-DD)	2009-02-02
Name	David J. Cushing	Registration Number	28703

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

EDWARD LANGER
c/o SHIBOLETH YISRAELI ROBERTS ZISMAN & CO.
1 PENN PLAZA-SUITE 2527
NEW YORK, NY 10119

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MAR 12 2010

In re Patent No. **6,811,757**	:	
Issue Date: November 2, 2004	:	
Application No. 10/108,562	:	DECISION ON PETITION
Filed: March 29, 2002	:	UNDER 37 CFR 1.378(c)
Attorney Docket No. **1535**	:	

This is a decision on the petition under 37 CFR 1.378(c), filed February 20, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on November 2, 2008 for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Files Repository.

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
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PLATON N. MANDROS
BURNS, DOANE, SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

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APR 22 2005

OFFICE OF PETITIONS

In re Application of :
Yoshio Irie et al :
Application No. 10/108,572 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 011350-292 :

This is a decision on the petition, filed April 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 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 (571) 272-3208.

The examiner of Technology Center AU 1713 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 22, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

COPY MAILED

APR 22 2005

OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Yoshio Irie et al
Application No. :10/108,572
Filed :March 29, 2002

The above-identified application has been assigned Patent No. 6,887,945 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. 6,887,945 to Yoshio Irie et al of Japan for METHOD FOR PRODUCTION OF HYDROPHILIC RESIN 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

STEPHEN P. WIGMORE, ESQ.
KING & SPALDING
45TH FLOOR
191 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30303

MAIL

NOV 2 7 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Vincent Mark Hietala, et al. :
Application No. 10/108,598 : DECISION ON REQUEST TO
Filed: March 28, 2002 : WITHDRAW AS ATTORNEY
For: METHOD AND SYSTEM FOR DECODING :
MULTILEVEL SIGNALS :

This is a decision on the request to withdraw as attorney/agent of record filed on September 4, 2002.

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

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DILLION & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY
SUITE 2110
AUSTIN, TX 78759

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of
David Carroll Challener
Application No. 10/108,600
Filed: March 28, 2002
Attorney Docket No. **RPS920010189US1**

ON PETITION

This is a decision on the petition filed August 28, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

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

This application became abandoned February 29, 2007 for failure to timely pay the issue fee on or before February 28, 2007. Accordingly, a Notice of Abandonment was mailed July 5, 2007.

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 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)).

UNITED STATES PATENT AND TRADEMARK OFFICE

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OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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APR 11 2006
OFFICE OF PETITIONS

In re Application of :
Naohiro Hirose et al :
Application No. 10/108,628 : DECISION GRANTING PETITION
Filed: March 29, 2002 : UNDER 37 CFR 1.313(c)(2)
Atty Dkt No. P 275649 7030PU-CONT :

This is a decision on the petition, filed April 10, 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 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 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Apr9\108628.wpd

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

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

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JUL 02 2007

OFFICE OF PETITIONS

In re Application of	:	
Naohiro Hirose et al	:	
Application No. 10/108,628	:	ON PETITION
Filed: March 29, 2002	:	
Attorney Docket No. P 275649 7030PU-CONT	:	

This is a decision on the petition, filed June 29, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 23, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2814 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090925

DATE : September 25, 2009

TO SPE OF : ART UNIT 2892

SUBJECT : Request for Certificate of Correction on Patent No.: 7,332,816

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:

No new matter has been introduced and the scope or meaning of the claims have not been changed.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-04-09

TO SPE OF : ART UNIT 2892

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/108628 Patent No.: 7332816

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

Angela Green
Certificates of Correction Branch
703-756-1541

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: _____

Thao x. Le 2892.
SPE **Art Unit**

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)
6682712	2004-01-27	10108639	2002-03-29	Q69159

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	/DJCushing/	Date (YYYY-MM-DD)	2009-02-02
Name	David J. Cushing	Registration Number	28703

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. 6682712
Issue Date: January 27,2004
Application No. 10108639
Filed: March 29,2002
Attorney Docket No. Q69159

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

This is a decision on the electronic petition, filed February 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 February 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

Paper No. 072804

JEFFREY A. WOLFSON
WINSTON AND STRAWN
1400 L STREET, NW
WASHINGTON, DC 20005

SEP - 2 2004

In re Application of:	:	
WANG *et al.*	:	DECISION ON REQUEST TO WITHDRAW
Serial No.: 10/108,707	:	FROM RECORD
Filed: March 29, 2002	:	
Attorney Docket No.: **104427-199**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 25, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys associated with Customer No. 27542 was filed on May 25, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: SAND & SEBOLT
4940 MUNSON, STREET, NW
CANTON, OH 44718-3615

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

MARSHALL, GERSTEIN & BORUN
6300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6402

In re Application of :
Barraclough et al. :
Application No. 10/108,737 : DECISION ON PETITION
Filed: March 28, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 30357/38356 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 2, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed PCT application.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 120 and 365(c) and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 36 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority) must commence on a separate physical sheet. 37 CF 1.4(c) states that each distinct subject, inquiry or order must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable. Accordingly, a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3), must be submitted.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARSHALL, GERSTEIN & BORUN
6300 Sears Tower
233 South Wacker Drive
Chicago IL 60606-6402

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OFFICE OF PETITIONS

In re Application of	:	
Barraclough et al.	:	
Application No. 10/108,737	:	DECISION GRANTING PETITION
Filed: March 28, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 30357/38356	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 21, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 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.

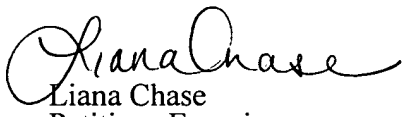
The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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 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 applications, accompanies this decision on petition.

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



Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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Paper No. 4

BRINKS HOFER GILSON & LIONE
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CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Cheung et al.	:	
Application No. 10/108,745	:	ON PETITION
Filed: 28 March, 2002	:	
Attorney Docket No. 9623/402	:	

This is a decision on the petition under 37 CFR 1.183, filed on 28 March, 2002, to waive 37 CFR 1.53(e).

When a compact disc has been submitted as part of an application, one is required to list the files on the disc in the application and on the transmittal sheet. In the instant case, applicant seeks a waiver of the requirement and seeks to submit such a listing on compact disc rather than in the application and on the transmittal sheet.

The petition is **GRANTED**.

Petitioner has demonstrated that a listing of the files would be over 1,000 pages long. Petitioner has submitted a "table" on the compact disc listing each file on the disc by file name, file size, and creation date.

Petitioner should note that petitioner, and not the Office, is responsible for identifying and correcting and difference between the file list on the compact disc and the files actually on the compact disc.

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

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood at (703)308-6918.

Douglas I. Wood
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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PALO ALTO, CA 94306

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OFFICE OF PETITIONS

In re Application of :
John Stuart Hoch et al :DECISION GRANTING PETITION
Application No. 10/108,765 :UNDER 37 CFR 1.137(b)
Filed: March 26, 2002 :
Attorney Docket No. 128-1.1 :

This is a decision on the petition, filed November 10, 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 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 under 37 CFR 1.137(f) is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country. 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 USPTO of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

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

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

This matter is being referred to Technology Center AU 2187.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

Wan Laymon

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

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5201 GREAT AMERICA PARKWAY, SUITE 270
SANTA CLARA CA 95054

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OFFICE OF PETITIONS

In re Application of :
John S. HOCH et al. :
Application No. 10/108,765 : DECISION ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. 128-1.1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 02, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 06, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 06, 2007. Accordingly, the date of abandonment of this application is November 07, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly, the payment of Issue and Publication fees is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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KATHLEEN M. HARLESTON
THE HARLESTON LAW FIRM
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MT PLEASANT SC 29464

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OFFICE OF PETITIONS

In re Application of :
Roger K. Gourdine :
Application No. 10/108,786 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. 0015 :

This is a decision on the petition, filed December 10, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2821 will consider the request for continued examination under 37 CFR 1.114.

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Yukihiro Ushiku, et. al. :
Application No. 10/108,790 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 04329-2800 :

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

The application became abandoned for failure to timely reply to the final Office action mailed on June 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 a Request for Continued Examination (RCE) under 37 CFR 1.114, along with the $790 filing fee and an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed February 3, 2006.

The application file is being referred to Technology Center Art Unit 2891.

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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WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of:
Ushiku et al.
Application No. 10/108790
Filing or 371(c) Date: 03/29/2002
Atty Docket No.
04329.2800

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This letter is in response to the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT," filed March 28, 2008. Pursuant to applicant's duty of good faith and candor to the Office, applicant discloses that the initial determination of patent term adjustment of 19 days may extend the term of this patent by too many days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **zero (0) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 8, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is nineteen (19) days.

The Office initially determined a patent term adjustment of nineteen (19) days based on an adjustment for PTO delay of seventy-four (74) days pursuant to 37 C.F.R. § 1.702(a)(1), reduced by fifty-five (55) days of applicant delay pursuant to 37 C.F.R. 1.704(b).

37 C.F.R. § 1.704(c) states:

> (3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date

> after the date the issue fee was due and ending on the earlier of:
> (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
> (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

Applicant should have been assessed additional delay of one hundred sixty-seven (167) days pursuant to 37 C.F.R. § 1.704(c)(3). The application became abandoned on September 29, 2005, for failure to reply to the final Office action, mailed June 28, 2005. Applicant filed a petition to revive the application on February 3, 2006. A decision reviving the application was mailed on March 14, 2006, which is one hundred sixty-seven (167) days after the date of abandonment of the application.

A further review of the application history reveals that Applicant should have been assessed an additional delay of two (2) days pursuant to 37 C.F.R. § 1.704(b). 37 C.F.R. § 1.704(b) states:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.;

In this instance, Applicant filed a Request for Continued Examination ("RCE") and Amendment on May 14, 2007, in response to a final Office action mailed February 12, 2007. The period of applicant delay is two (2) days (beginning on May 13, 2007 and ending on May 14, 2007).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0) days** ((74 days of PTO delay, reduced by 185 (24+29+167+2+2)) days of applicant delay), subject to any terminal disclaimer.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Updated PAIR Screen

Day : Monday
Date: 7/21/2008

PALM INTRANET

Time: 09:25:13

PTA Calculations for Application: 10/108790			
Application Filing Date:	03/29/2002	PTO Delay (PTO):	74
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	55
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-169		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
95	07/21/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		167	
94	07/21/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		2	
85	01/09/2008	MAIL NOTICE OF ALLOWANCE			
84	01/08/2008	ISSUE REVISION COMPLETED			
83	01/08/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
82	01/08/2008	DOCUMENT VERIFICATION			
81	01/07/2008	NOTICE OF ALLOWABILITY			
80	11/01/2007	DATE FORWARDED TO EXAMINER			
79	10/25/2007	RESPONSE AFTER NON-FINAL ACTION			
78	10/29/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
77	10/23/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
76	07/25/2007	MAIL NON-FINAL REJECTION			
75	07/23/2007	NON-FINAL REJECTION			
74	05/17/2007	DATE FORWARDED TO EXAMINER			
73	05/14/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
72	05/17/2007	DATE FORWARDED TO EXAMINER			
71	05/14/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
70	05/17/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
69	05/14/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
68	02/12/2007	MAIL FINAL REJECTION (PTOL - 326)			
67	02/09/2007	FINAL REJECTION			
		INFORMATION DISCLOSURE STATEMENT			

66	10/20/2006	CONSIDERED			
65	02/01/2007	DATE FORWARDED TO EXAMINER			
64	01/22/2007	AMENDMENT AFTER FINAL REJECTION		2	61
63	10/20/2006	REFERENCE CAPTURE ON IDS			
62.7	10/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	10/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	10/20/2006	MAIL FINAL REJECTION (PTOL - 326)			
60	10/16/2006	FINAL REJECTION			
59	08/04/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
58	08/10/2006	DATE FORWARDED TO EXAMINER			
57	08/04/2006	RESPONSE AFTER NON-FINAL ACTION			
56.7	08/04/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	08/04/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	05/05/2006	MAIL NON-FINAL REJECTION			
54	05/02/2006	NON-FINAL REJECTION			
53	03/14/2006	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
52	02/03/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
51	02/17/2006	DATE FORWARDED TO EXAMINER			
50	02/03/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
49	02/17/2006	DATE FORWARDED TO EXAMINER			
48	02/03/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
47	02/17/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
46	02/15/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT			
45	02/15/2006	NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT.			
44	02/03/2006	PETITION ENTERED			
43	01/05/2006	DATE FORWARDED TO EXAMINER			
42	12/23/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
41	01/05/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			

40	12/23/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	12/23/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	06/28/2005	MAIL FINAL REJECTION (PTOL - 326)			
37	06/24/2005	FINAL REJECTION			
36	05/10/2005	DATE FORWARDED TO EXAMINER			
35	05/02/2005	RESPONSE AFTER NON-FINAL ACTION		29	30
34	05/02/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
32	03/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
31	01/25/2005	CASE DOCKETED TO EXAMINER IN GAU			
30	01/03/2005	MAIL NON-FINAL REJECTION			
29	12/27/2004	NON-FINAL REJECTION			
28	10/21/2004	DATE FORWARDED TO EXAMINER			
27	10/13/2004	RESPONSE AFTER NON-FINAL ACTION			
26	10/13/2004	WORKFLOW INCOMING AMENDMENT IFW			
25	07/14/2004	MAIL NON-FINAL REJECTION			
24	07/12/2004	NON-FINAL REJECTION			
23	06/17/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	06/17/2004	DATE FORWARDED TO EXAMINER			
21	06/04/2004	AMENDMENT AFTER FINAL REJECTION			
20	06/04/2004	WORKFLOW INCOMING AMENDMENT IFW			
19	03/04/2004	MAIL FINAL REJECTION (PTOL - 326)			
18	02/23/2004	FINAL REJECTION			
17	12/18/2003	IFW AMENDED CASE PROCESSING COMPLETE			
16	12/18/2003	DATE FORWARDED TO EXAMINER			
15	12/05/2003	RESPONSE AFTER NON-FINAL ACTION		24	13
14	12/05/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
13	08/11/2003	MAIL NON-FINAL REJECTION	74		-1
12	08/06/2003	NON-FINAL REJECTION			
11	07/07/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	06/21/2002	CASE DOCKETED TO EXAMINER IN GAU			
9.7	03/29/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	03/29/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

8	03/29/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
7	03/29/2002	MISCELLANEOUS INCOMING LETTER			
6	05/06/2002	APPLICATION DISPATCHED FROM OIPE			
5	05/03/2002	APPLICATION IS NOW COMPLETE			
3	04/11/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	04/10/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/29/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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FEB 03 2009

OFFICE OF PETITIONS

In re Application of:	:	
Ushiku et al.	:	
Issue Date: August 19, 2008	:	LETTER REGARDING
Application No. 10/108,790	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 03/29/2002	:	
Atty Docket No. 04329.2800	:	

This letter is in response to the "DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT," filed September 17, 2008. Pursuant to applicant's duty of good faith and candor to the Office, applicant discloses that the initial determination of patent term adjustment of 67 days may extend the term of this patent by too many days.

The request for review of the determination of patent term adjustment (PTA) 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-five (45) days**.

On August 19, 2008, the above-identified application matured into U.S. Patent No. 7,413,914, with a revised patent term adjustment of 67 days. Patentee asserts that in view of the request for continued examination ("RCE") filed December 23,

2005, and the three-year pendency date of December 23, 2005, Office delay is two hundred sixty-nine (269) days. Furthermore, because applicant delay is 224 days, Patentee calculates the patent term adjustment to be 45 days.

Patentee is correct. 37 C.F.R. § 1.703(b)(1) states:

> (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 an international application and ending on the date a patent was issued, but not including the sum of the following periods:
> (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;

In this instance, the RCE was filed on December 23, 2005. Thus, the ability to accumulate additional patent term adjustment against the three-year pendency provision ended December 23, 2005. Accordingly, the period of adjustment under 37 C.F.R. § 1.703(b) is 269 days, counting the number of days beginning on March 29, 2005, and ending on December 23, 2005 (1239 days minus the 970 days consumed by the filing of the RCE).

In view thereof, the patent should have issued with a revised patent term adjustment of **forty-five (45) days.**

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

The application 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-five (45)** days.

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

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 : 7,413,914 B2

DATED : **August 19, 2008** **DRAFT**

INVENTOR(S) : Ushiku 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 67 days

Delete the phrase "by 67 days" and insert – by 45 days--

RECEIVED
AUG 1 2001 8/15/01
LYNNE M CHRISTENBURY

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. 27

LYNNE M CHRISTENBURY
E I DUPONT DE NEMOURS AND COMPANY
LEGAL PATENTS
1007 MARKET STREET
WILMINGTON DE 19898

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AUG 7 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
LIGHTNER ET AL.
Application No. 09/133,962
Filed: August 14, 1998 (CPA 2/14/01)
Attorney Docket No. BB-1043-d

ON PETITION

This is a decision on the renewed petitions filed April 3, 2001, (1) under 37 CFR 1.183, requesting waiver of the rules (37 CFR 1.67) as a previously signing inventor refuses to execute a supplemental declaration, and (2) under 37 CFR 1.48, amending the inventive entity to include Yadav, Hitz, Kinney, and Perez-Grau.

The petitions are granted.

As a result of papers filed April 3, and August 2, 2001, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship has been changed by the addition of William Hintz, Wilmington Delaware; Anthony Kinney, Wilmington Delaware; Narendra Yadav, Chadds Ford, Pennsylvania; and Luis Perez-Grau, Davis California.

A corrected filing receipt is enclosed with this decision.

As previously indicated the fee for a submission under 27 CFR 1.129(a) was paid in error as this application does not qualify for the interim procedure, and as such, the $710 fee has been credited to deposit account No. 04-1928.

This application is being returned to Technology Center AU 1638, where the examiner is authorized to consider the amendment under 37 CFR 1.312 currently indicated to have been filed April 3, 2001.

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

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

Enclosure: Corrected Filing Receipt

RECEIVED
AUG 15 2001
10108795 .032802
LYNNE M. CHRISTENBURY

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WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/133,962	08/14/1998	1638	2914	BB-1043-D		39	13

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CONFIRMATION NO. 7275

CORRECTED FILING RECEIPT

OC000000006392252

LYNNE M CHRISTENBURY
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENTS
1007 MARKET STREET
WILMINGTON, DE 19898

AUG 14 2001

Date Mailed: 08/07/2001

Receipt is acknowledged of this nonprovisional 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 Customer Service Center. 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)

JONATHAN EDWARD LIGHTNER, MARIETTA, PA;
JOHN JOSEPH OKULEY, COLUMBUS, OH;
WILLIAM DEAN HITZ, WILMINGTON, DE;
ANTHONY JOHN KINNEY, WILMINGTON, DE;
NARENDRA YADAV, CHADDS FORD, PA;
LUIS PEREZ-GRAU, DAVIS, CA;

Domestic Priority data as claimed by applicant

THIS APPLICATION IS A CON OF 08/262,401 06/20/1994 ABN
WHICH IS A CIP OF PCT/US93/09987 10/15/1993
THIS APPLICATION 09/133,962
IS A CIP OF 07/977,339 11/17/1992 ABN

Foreign Applications

If Required, Foreign Filing License Granted 09/25/1998

Projected Publication Date: N/A

Non-Publication Request: No

Early Publication Request: No

Title

GENES FOR MICROSOMAL DELTA-12 FATTY ACID DESATURASES AND RELATED ENZYMES FROM PLANTS

Preliminary Class

800

Data entry by : HEARN, BRIAN

Team : OP

Date: 08/07/2001

10108795.032802

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).

PLEASE NOTE the following information about the Filing Receipt:

- The articles such as **"a," "an"** and **"the"** are not included as the first words in the title of an application. They are considered to be unnecessary to the understanding of the title.
- The words **"new," "improved," "improvements in"** or **"relating to"** are not included as first words in the title of an application because a patent application, by nature, is a new idea or improvement.
- The title may be truncated if it consists of more than 500 characters (letters and spaces combined).
- The docket number allows a maximum of 25 characters.
- If your application was submitted under 37 CFR 1.10, your filing date should be the "date in" found on the Express Mail label. If there is a discrepancy, you should submit a request for a corrected Filing Receipt along with a copy of the Express Mail label showing the "date in."
- The title is recorded in sentence case.

Any corrections that may need to be done to your Filing Receipt should be directed to:

Assistant Commissioner for Patents
Office of Initial Patent Examination
Customer Service Center
Washington, DC 20231

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ALEXANDRIA, VA 22313-1450
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FEB 14 2005

OFFICE OF PETITIONS

LIFENET
5809 WARD COURT
VIRGINIA BEACH VA 23455

In re Patent No. 6,837,907 :
Issued: January 4, 2005 :
Application No. 10/108,804 : PATENT TERM ADJUSTMENT
Filed: March 27, 2002 :
Dkt. No.: LN.040 :

This is a decision on the "Application for Patent Term Adjustment under 37 CFR §1.705," filed May 10, 2004. This request is being treated under 37 CFR 1.704(b).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 6,837,097 on January 4, 2005. The instant request under 37 CFR 1.705(b) was timely filed May 10, 2004 at the time of payment of issue fee. The patent issued with a PTA of 0 days.

Applicants argue that at the time of allowance, the adjustment of 90 days for Office delay under 37 CFR 1.702(a)(1) and 1.703(a)(2) should have been reduced 54 days rather than 68 days for applicants' failure to engage in reasonable efforts to conclude prosecution.

A review of the application history reveals that the Office errantly entered October 10, 2002 as the date a response to the Notice mailed May 3, 2002 was submitted rather than the proper date of September 26, 2002. Thus, as argued by applicants, at the time of Allowance, the adjustment of 90 days should have been reduced 54 days under 37 CFR 1.704(b).

At the time of issuance of the patent, an additional adjustment of 116 days under 37 CFR 1.702(a)(4) and 1.703(a)(4) was accorded for failure to issue the patent within four months of payment of the issue fee, resulting in a total adjustment of 206 days.

The total adjustment of 206 days was reduced an additional 120 days in accordance with 37 CFR 1.704(c)(10) for submission of a supplemental declaration on May 10, 2004[1].

Accordingly, the total overall adjustment at the time of issuance of the patent of 206 days is properly reduced a total of 174, resulting in a PTA of 32 days.

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

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 32 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Karin Ferriter

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

[1] See, Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001).

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,837,097 B2
DATED	:	January 4, 2004
INVENTOR(S)	:	Cunningham, et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 0 days

Delete the phrase "by 18 days" and insert – by 32 days--

Day : Thursday
Date: 2/10/2005

PALM INTRANET

Time: 10:21:17

PTA Calculations for Application: 10/108804			
Application Filing Date:	03/27/2002	PTO Delay (PTO):	206
Issue Date of Patent:	01/04/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	188
Post-Issue Petitions:	0	Total PTA (days):	32
PTO Delay Adjustment:	14		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
47	02/10/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	14		
43	01/04/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	116		39
42	12/02/2004	RECEIPT INTO PUBS			
41	11/30/2004	DISPATCH TO FDC			
40	11/30/2004	APPLICATION IS CONSIDERED READY FOR ISSUE			
39	05/10/2004	MAILROOM DATE OF ISSUE FEE PAYMENT			
38	11/23/2004	RECEIPT INTO PUBS			
37	05/10/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED		0	
36	05/10/2004	SUPPLEMENTAL PAPERS - OATH OR DECLARATION		120	
35	06/11/2004	RECEIPT INTO PUBS			
34	05/21/2004	WORKFLOW - QUERY REQUEST - FINISH			
33	05/10/2004	WORKFLOW INCOMING PETITION IFW			
32	05/10/2004	ISSUE FEE PAYMENT RECORDED			
31	04/22/2004	WORKFLOW - QUERY REQUEST - BEGIN			
30	03/09/2004	RECEIPT INTO PUBS			
29	03/09/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
28	02/10/2004	MAIL NOTICE OF ALLOWANCE			
27	02/04/2004	ISSUE REVISION COMPLETED			
26	02/04/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
25	02/04/2004	NOTICE OF ALLOWABILITY			
24	11/20/2003	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
23	11/20/2003	MISCELLANEOUS INCOMING LETTER			

22	12/08/2003	DATE FORWARDED TO EXAMINER			
21	11/20/2003	RESPONSE AFTER NON-FINAL ACTION			
20	08/25/2003	MAIL NON-FINAL REJECTION	90		-1
19	08/14/2003	NON-FINAL REJECTION			
18	07/25/2003	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
17	07/25/2003	CORRESPONDENCE ADDRESS CHANGE			
16	07/02/2003	POWER TO MAKE COPIES AND/OR INSPECT			
15	07/02/2003	CORRESPONDENCE ADDRESS CHANGE			
14	07/02/2003	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
13	03/07/2003	CORRESPONDENCE ADDRESS CHANGE			
12	03/10/2003	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
11	01/22/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	11/01/2002	TRANSFER INQUIRY TO GAU			
9	10/11/2002	APPLICATION DISPATCHED FROM OIPE			
8	10/10/2002	APPLICATION IS NOW COMPLETE		68	5
7	09/26/2002	ADDITIONAL APPLICATION FILING FEES			
6	09/26/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	05/03/2002	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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UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

NOV -3 2002

UR
PAPER NO. 4

In re Application of
Jon P. Wagner et al.
Serial No. 10/108,814
Filed: March 28, 2002
For: CATALYST FOR PRODUCTION
OF HYDROGEN

DECISION
ON
PETITION
UNDER 708.02,V

This is in response to the petition filed October 03, 2002, requesting that the above-identified application be granted Special Status under Sections 708.02 (V) of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is **GRANTED.**

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Middleton & Reutlinger
2500 Brown & Williamson Tower
Louisville, KY 40202

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 11

DAVID TOREN, ESQ.
SIDLEY, AUSTIN, BROWN & WOOD, LLP
787 SEVENTH AVENUE
NEW YORK NY 10019-6018

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JUL 19 2004

OFFICE OF PETITIONS

In re Application of :
Akyuz et al. :
Application No. 10/108,830 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. DT-6146 :

This is a decision on the petition under 37 CFR 1.137(a), filed June 16, 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)." In the alternative, applicants may wish to file a petition under 37 CFR 1.137(b).

The application became abandoned on January 25, 2004, for failure to timely reply to the final Office action mailed on October 24, 2003, which set a three-month shortened statutory period for reply. Petitioner did not obtain any extensions of time to reply under 37 CFR 1.136(a). A Notice of Abandonment was mailed on June 14, 2004.

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 utility or plant application filed on or after June 8, 1995, and abandoned for failure to

prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

This petition lacks items(1) and (3) above.

As to item (1), applicants did not submit a response to the final Office action with the present petition. A proper response to a final Office action is the filing of a notice of appeal, a continuation application, an RCE with a submission, or an amendment which places the case in condition for allowance.

As to item (3), applicants assert that the delay was caused by nonreceipt of the final Office action mailed on October 24, 2003.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[1] 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

[1] 35 U.S.C. § 133.

> 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.[2]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[3] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

In the present petition, applicants state they became aware of the abandonment of the above-identified application upon receiving a call from the Examiner. Applicants further state that they have not received the Notice of Abandonment. Applicants have enclosed a printout of a computer docket of the subject application and an extract from a log book of incoming correspondence from October 24 to November 25, 2003, both showing that no final Office action was received by the law firm of Sidley Austin Brown & Wood LLP.

A review of the written record indicates that the final Office action was properly mailed to the address of record as it existed on October 24, 2003. Specifically, the Office notes that a Notice of Publication of Application was mailed to the address of record on October 17, 2003; however, it was returned to the USPTO with an indication from the USPS that the forwarding time had expired and to return to sender. Therefore, it appears that applicants did not receive the final Office action because they failed to file a change of correspondence address with the USPTO. Moreover, applicants did not file a change of correspondence

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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] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

address with the USPTO until June 16, 2004, almost eight months after the forwarding address expired.

The belated notification to the Office of the change of correspondence address does not constitute proper notification as to establish unavoidable delay. Applicants are responsible for promptly notifying the Office of any change of address. The Office further notes that where an application becomes abandoned as a consequence of a change of correspondence address an adequate showing of "unavoidable" delay requires a showing that applicants exercised due care to promptly notify the Office of the change of address and file a timely notification of the change of address in the application.[5]

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[6]

Accordingly, the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a).

Because applicants did not provide any showing that the delay was unavoidable within the meaning of 35 USC 151 and 37 CFR 1.137(a), the petition must be **dismissed.** In any renewed petition under 37 CFR 1.137(a), applicants must submit a thorough explanation, including any documentary evidence, to support a showing of unavoidable delay.

Alternate Venue:

Applicants may wish to consider filing a petition under amended 37 CFR 1.137(b). 37 CFR 1.137(b) provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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[5] MPEP 711.03(c)(III)(C)(2)

[6] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) The petition fee as set forth in § 1.17(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 as set forth in § 1.20(d))required pursuant to 37 CFR 1.137(c).

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Notice of Publication
Final Office Action
Notice of Abandonment

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 14

David Toren, Esq.
Sidley, Austin, Brown & Wood LLP
787 Seventh Avenue
New York, NY 10019-6018

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FEB 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Akyuz et al. :
Application No. 10/108,830 : DECISION ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. DT-6146 :

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

This application became abandoned for failure to reply timely to the final Office action mailed October 24, 2003, which set a three-month shortened statutory period to respond. Petitioner did not obtain any extensions of time under 37 CFR 1.136(a). Accordingly, this application became abandoned on January 25, 2004. A Notice of Abandonment was mailed on June 14, 2004.

On June 16, 2004, petitioner filed a petition under 37 CFR 1.137(a), which was dismissed by the decision of July 19, 2004. On October 8, 2004, petitioner submitted the present petition under 37 CFR 1.137(b).

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay.

Accordingly, the petition under 37 CFR 1.137(b) is **GRANTED**.

The Office finance records indicate that the Office did not charge petitioner the $110.00 fee for the petition under 37 CFR 1.137(a) filed on June 16, 2004. Accordingly, the Office will charge the outstanding $110.00 petition fee to Deposit Account No. 50-0955, as authorized in the petition filed on June 16, 2004.

The application file is being forwarded to Technology Center Art Unit 1755.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

UNILEVER INTELLECTUAL PROPERTY GROUP
700 SYLVAN AVENUE
BLDG C2 SOUTH
ENGLEWOOD CLIFFS NJ 07632-3100

In re Application of :
Michael Steven Zelski :
Application No. 10/108,831 : DECISION ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. F6147(V) :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 17, 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. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.181".

The above-identified application was held abandoned for failure to timely file a proper Appeal Brief in response to a Notice of Non-Compliant Appeal Brief. Applicant originally filed an Appeal Brief on May 4, 2005. However, the Office mailed a Notice of

Non-Compliant Appeal Brief on November 23, 2005. As the Appeal Brief was determined to be a bona fide attempt to respond, the Notice set an extendable period for reply of one (1) month. Applicant filed a second Appeal Brief on February 28, 2006, made timely by including a Certificate of Mailing dated February 23, 2006 and by obtaining a two month extension of time. The Office mailed a Notice on July 28, 2006, notifying applicant that the second Appeal Brief filed February 28, 2006 was also non-complaint. Moreover, the Notice pointed out that the second Appeal Brief was not deemed to be a bona fide attempt to respond. Accordingly, the Notice dismissed the Appeal, and as there were no allowed claims, abandoned the application.

On petition, applicant states that the Examiner indicated in a telephone conversation that a second non-compliant brief notification was mailed on February 28, 2006. This is incorrect. No additional Notice of Non-Compliant Appeal Brief was mailed.

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

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

By FAX: 571-273-8300
Attn: Office of Petitions

Telephone inquiries 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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STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P.O. BOX 4000
PRINCETON, NJ 08543-4000

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NOV 25 2005

OFFICE OF PETITIONS

In re Application of :
Donna M. Bilder :
Application No. 10/108,842 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. PH-7147 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before October 5, 2005. Accordingly, this application became abandoned on October 6, 2005.

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 12, 2006

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/108842 Patent No.: 7,015,214

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

1624

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

DOWELL & DOWELL PC
SUITE 309
1215 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

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APR 2 3 2003

OFFICE OF PETITIONS

In re Application of :
Robert Kevin MacLean :
Application No. 10/108,855 : DECISION ON PETITION
Filed: March 29, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 13954 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 14, 2003 , to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/281,851, filed April 6, 2001.

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 29, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/281,851, which was filed on April 6, 2001, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/281,851, filed April 6, 2001 is granted.

The granting of the petition to accept the delayed benefit claim to the prior 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 application. In order for the instant application to be entitled to the benefit of the prior application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Additionally, the Associate Power of Attorney filed April 14, 2003 has been made of record in the instant application.

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

The application is being forwarded to Technology Center AU 1744 for processing the amendment submitted April 14, 2003 and for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/281,851, filed April 6, 2001.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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MAY 21 2009

OFFICE OF PETITIONS

In re Patent No. 7,430,217	:	
KUHL et al.	:	
Issue Date: September 30, 2008	:	DECISION ON REQUEST FOR
Application No. 10/108,859	:	RECONSIDERATION OF
Filed: March 29, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 088245-0130	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed November 19, 2008, requesting that the patent term adjustment determination for the above-identified patent be corrected from one thousand one hundred thirty-eight (1,138) days to one thousand three hundred eighty-nine (1,389) days.

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

On September 30, 2008, the above-identified application matured into U.S. Patent No. 7,430,217 with a patent term adjustment of 1,138 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), 251 of 778 days, does not overlap with the 1,197-day period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), as these periods do not

occur on the same days. Thus, patentees request that the determination of patent term adjustment be increased by 251 days to a total of 1,389 days.

The 778-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on March 29, 2002, and the request for continued examination (RCE) having been filed in this application on May 16, 2007, 3 years and 778 days later. Patentees assert that in addition to this 778-day period, patentees are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 1,197 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1). A nonfinal Office action was mailed September 7, 2006, 14 months and 1,197 days after the application was filed on March 29, 2002.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 59 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (778 days) and the period of Examination Delay (1,197 days) to the extent that these periods of delay are not overlapping. Patentees contend that 527 days of the period of delay of 1,197 days for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed (May 30, 2003 to September 7, 2006) overlaps with the Three Year Delay period (March 30, 2005 to May 16, 2007). Patentees assert that this overlapping period is the 527 days running from March 30, 2005 to September 7, 2006.

Accordingly, patentees submit that the total period of Office Delay is 1,448 days, which is the sum of the period of Three Year Delay (778 days) and the period of Examination Delay (1,197 days), reduced by the period of overlap (527 days). Thus,

patentees assert entitlement to a patent term adjustment of 1,389 days (778 + 1,197 reduced by 527 overlap - 59 for applicant delay).

The Office agrees that as of the filing of the RCE on May 16, 2007, the application was pending 3 years and 778 days. The Office also agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment for examination delay of 1,197 days is correct. At issue is whether patentees should accrue 251 days of patent term adjustment (adjusted for overlap, per patentee's calculations) for the Office taking in excess of three years to issue the patent, as well as 1,197 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that 778 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of 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 three-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, March 29, 2002, as terminated by the filing of the RCE on May 16, 2007. Prior to the issuance of the patent, 1,197 days of patent term

---

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

adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 778 days for Office delay in issuing the patent overlap with the 1,197 days of Office delay. The Office took 14 months and 1,197 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 1,197 days of Office delay and the 59 days of applicant delay and the time allowed within the time frames for processing and examination, as of the filing of the RCE, the application was pending 3 years and 778 days. The Office did not delay 1,197 days and then an additional 778 days. Accordingly, 1,197 days of patent term adjustment was properly entered because the period of delay of 778 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 1,197 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

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

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

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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MAR 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,430,217	:	DECISION ON REQUEST FOR
KÜHL et al.	:	RECONSIDERATION OF
Issue Date: September 30, 2008	:	PATENT TERM ADJUSTMENT AND
Application No. 10/108,859	:	NOTICE OF INTENT TO ISSUE
Filed: March 29, 2002	:	CERTIFICATE OF CORRECTION
Atty Docket No. 088245-0130	:	

This is a decision on the petition filed on July 17, 2009,[1] which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred eighty-nine (1389) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent** that the term of the above-identified patent is extended or adjusted by one thousand three hundred eighty-eight (1388) days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on March 30, 2005, and ends on May 15, 2007, the day before the RCE was filed, and is 777 (not 778) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1388, not 1389 days.

[1] This petition was timely filed within two months of the decision on the request for reconsideration of patent term adjustment mailed May 21, 2009.

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

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e).

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand three hundred eighty-eight (1388) days.**

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,430,217 B2

DATED : Sep. 30, 2008 **DRAFT**

INVENTOR(S) : KÜHL 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 1138 days

Delete the phrase "by 1138 days" and insert – by 1388 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-16-05

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction on Patent No.: 6,792,793

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

10/108,906

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-16-05

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction on Patent No.: 6,792,793

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No: 305-8309

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

Magdalene Talley

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

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

Note your decision on the appropriate box.

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

Comments:

Corrections ok; not changing scope of application.

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

ANCEL W. LEWIS, JR.
425 WEST MULBERRY
SUITE 101
FORT COLLINS, CO 80521

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FEB 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Jeffrey A. Godard et al :
Application No. 10/108,931 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. DN 1479 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed April 22, 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 23, 2002.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Feiring et al. :
Application No. 10/108,935 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. SR0010 US CIP :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 12, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed November 19, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 20, 2004. A Notice of Abandonment was mailed on June 25, 2004.

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

The terminal disclaimer filed on February 20, 2004 has been accepted and made of record in the above-identified application.

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

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

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

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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DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
802 WEST BANOCK STREET,
SUITE 405
BOISE ID 83701

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JUN 0 8 2004

OFFICE OF PETITIONS

In re Application of
Richard L. Coombs
Application No. 10/108,936
Filed: March 26, 2002
Attorney Docket No. PROT106DIV

: 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 19, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/605,578, filed June 28, 2000.

The petition is **DISMISSED**.

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

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

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

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

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

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement for Application No. 09/605,578, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

Additionally, for future reference petitioner is advised to comply with 37 CFR 1.4(c).

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

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[1] *Note* 37 CFR 1.121

By hand: Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

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

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

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DYKAS SHAVER & NIPPER LLP
P O BOX 877
802 WEST BANOCK STREET, SUITE 405
BOISE, ID 83701

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JUL 07 2004

OFFICE OF PETITIONS

In re Application of :
Richard L. Coombs :
Application No. 10/108,936 : DECISION ON PETITION
Filed: March 26, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PROT106DIV :

This is a decision on the "substitute" petition filed June 15, 2004, which is being treated as a renewed petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/605,578, the amendment of which is incorporated into 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 26, 2002, and was pending at the time of filing of the instant petition. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center Art Unit 1732 for appropriate action on the amendment incorporated in the petition filed June 15, 2004,[1] including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

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

ATTACHMENT: Corrected Filing Receipt

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[1] Since different matters are considered by different parts of the Office, the amendment should be included in a separate paper. *Note* 37 CFR 1.4(c).

10108969 .070202 0360

Practitioner's Docket No. 5988-0001

COPY OF PAPERS ORIGINALLY FILED

PATENT

JUL 0 2 2002 JC164 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	David M. Kurnit	Confirmation No.: 1610
Application No.:	10/108,969	Group No.: TBD
Filed:	03/28/02	Examiner: unknown
For:	Methods and Compositions for Analysis of Urine Samples in the Diagnosis and Treatment of Diseases	

Commissioner for Patents
Washington, D.C. 20231
ATTENTION: Application Division

RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS

I. This replies to the NOTICE TO FILE CORRECTED APPLICATION PAPERS mailed 05/07/02.

☒ A copy of the NOTICE TO FILE CORRECTED APPLICATION PAPERS is enclosed.

COMPLETION OF INFORMALITIES

II. To complete the informalities noted on the NOTICE TO FILE CORRECTED APPLICATION PAPERS, applicant submits herewith:

(check (a), (b) and/or (c) as applicable)

(a) ☐ a new Declaration, bearing the above application number and filing date, in compliance with 37 C.F.R. Section 1.63, and showing the post office address and the city and state or foreign country of applicant's residence

(b) ☒ new drawings complying with the size requirements **(Figures 1-3)**

WARNING: *Where drawings are being submitted, the facsimile transmission procedure of 37 C.F.R. Section 1.8(a) cannot be used. 37 C.F.R. Section 1.6(d)(4).*

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

I hereby certify that, on the date shown below, this correspondence is being:

MAILING		FACSIMILE	
[X]	deposited with the United States Postal Service with sufficient postage as First Class Mail, Post Office to Addresse, addressed to the Commissioner for Patents, Washington, D.C. 20231.	[ ]	transmitted by facsimile to the Patent and Trademark Office (703) _____-_____.

Wendy Balabon
Signature

Date: June 25, 2002

Wendy Balabon
(type or print name of person certifying)

(c) ☐ new pages _____, which are clear enough to be microfilmed ***and*** a Statement that New Pages Contain the Same Material as on Deposit.

EXTENSION OF TIME

III.

(complete (a) or (b), as applicable)

The proceedings herein are for a patent application, and the provisions of 37 C.F.R. Section 1.136(a) apply.

(a) ☐ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. Section 1.17(a)(1)-(5), for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
[ ] one month	$ 110.00	$ 55.00
[ ] two months	$ 390.00	$ 195.00
[ ] three months	$ 890.00	$ 445.00
[ ] four months	$ 1,390.00	$ 695.00
[ ] five months	$ 1,890.00	$ 945.00

Fee $_____

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

[ ] An extension for _____ months has already been secured and 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 $_____

or

(b) ☒ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Practitioner's Docket 65988-0001
Serial No.: 10/108,969

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FEE PAYMENT

IV.

☐ Attached is a check in the sum of $ _____.

COPY OF PAPERS ORIGINALLY FILED

☐ Charge Account No. 18-0013
- ☐ the sum of $_____ for the fee due.
- ☒ for any fee which may be due *(see conditional petition above).*

A duplicate of this transmittal is attached.

SIGNATURE OF PRACTITIONER
James F. Kamp
(type or print name of practitioner)
39533 Woodward Ave., Suite 140
Bloomfield Hills MI 48304

Reg. No.: 41,882

Tel. No.: (248)594-0656
Customer No.: 010291

R0150680.DOC

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/108,969	03/28/2002	David M. Kurnit	65988-0001

010291
RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS, MI 48304-0610

CONFIRMATION NO. 1610
FORMALITIES LETTER
OC000000008042228

Date Mailed: 05/07/2002

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a)

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

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CYTYC CORPORATION
250 CAMPUS DRIVE
MARLBOROUGH, MA 01752

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AUG 2 9 2005

OFFICE OF PETITIONS

In re Application of :
David Hung :
Application No. 10/108,994 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 12.021011

This is a decision on the petition under 37 CFR 1.137(a), filed July 27, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply to the non-final Office action mailed July 13, 2004, which set a period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowed period, and the application became abandoned on October 13, 2004. A Notice of Abandonment was mailed on July 7, 2005

Petitioner has established that the non-final Office action was sent to an improper address, despite the request the Revocation of Power of Attorney and Appointment of New Power of Attorney, filed December 15, 2005.

The file is now being forwarded to Technology Center 3700, GAU 3731 for further processing and treatment of the amendment filed July 27, 2005.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: "Notice of Acceptance of Power of Attorney"

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

DUANE, MORRIS, LLP
3200 SOUTHWEST FREEWAY
SUITE 3150
HOUSTON TX 77027

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JUN 2 0 2006

OFFICE OF PETITIONS

In re Application of :
David Lintner :
Application No. 10/109,032 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. D9161-01 :

This is a decision on the petition filed June 21, 2005, under 37 CFR 1.181, to withdraw the holding of abandonment.

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

This application became abandoned October 29, 2004 for failure to file a timely response to the non-Final Office Action mailed July 28, 2004. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner claims that the non-Final Office Action mailed July 28, 2004 was never received and that they only learned of the mailing of the office communication by checking the USPTO website. Petitioners aver that the office communication was mailed to their previous address although they moved their offices January 31, 2004 and provided the USPTO with the address change prior to the mailing of the office communication on July 28, 2004.

A review of the file record reveals that the office action was returned by the United States Postal Service on August 23, 2004. Additionally, petitioners have effectively demonstrated their diligent efforts to update the address by customer number and to ensure that correspondence mailed from the USPTO was properly addressed however, in spite of their efforts, it appears that the customer number update was not successful.

The non-Final Office Action was mailed to the wrong address and as petitioners claim, not received. In view of the above, no petition fees are due and none have been charged.

The abandonment is withdrawn and this matter is being referred to Technology Center 3731 for a re-mailing of the non-Final Office Action originally mailed July 28, 2004.

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

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

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

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SEP 15 2006

OFFICE OF PETITIONS

In re Application of
Donald Kenneth Hobday et al
Application No. 10/109,037
Filed: March 29, 2002
Attorney Docket No. 23952-0140

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 28, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki, along with all of the other attorneys associated with the law firm of Antonelli, Terry, Stout & Kraus, LLP, has been revoked by the assignee of the patent application on August 8, 2005, and supplemented on November 21, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant/assignee or the current attorneys of record.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON DC 20005-3960

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JUL 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Akihiko Iwata et al :
Application No. 10/109,044 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 401639/NGB :

This is a decision on the petition, filed July 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 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 2838 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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NOV 19 2008

OFFICE OF PETITIONS

In re Application of :
Barber et al. :
Application No. 10/109,059 : RESPONSE TO PETITION
Filed: March 29, 2002 :
Attorney Docket No. 914-1463 :

This is a response to the petition under 37 CFR 1.59(b), filed November 12, 2008, to expunge information from the above identified application.

The petition is **dismissed**.

On November 10, 2008, exhibits were submitted in association with two Declarations under 37 CFR 1.131. Petitioner now desires to have those exhibits expunged in exchange for corrected exhibits.

37 CFR 1.59 states:

> (a)(1) Information in an application will not be expunged, except as provided in paragraph (b) of this section or § 41.7(a) of this title.
> (2) Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.
> (b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(g) and **establish to the satisfaction of the Director that the expungement of the information is appropriate** in which case a notice granting the petition for expungement will be provided.
> (c) Upon request by an applicant and payment of the fee specified in § 1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (see §§ 1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of. [emphasis added]

The petition filed November 12, 2008 failed to establish that the expungement of the information is appropriate. Petitioner contends that since these documents are not part of the original disclosure there expungement is appropriate. However, this is not the correct standard for determining if the expungement of the information is appropriate. Rather, the requirement that this information not be a part of the original disclosure set forth in 37 CFR 1.59(a)(2) is a prerequisite to a petition under 37 CFR 1.59(b).

The standards for expunging information that is unintentionally submitted in an application, including the standards for establishing that the expungement of the information is appropriate, is discussed in MPEP section 724.05 II. This section states that a petition may be filed under 37 CFR 1.59(b), provided that:

> (A) the Office can effect such return prior to the issuance of any patent on the application in issue;
> (B) it is stated 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;
> (C) the information has not otherwise been made public;
> (D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
> (E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
> (F) the petition fee as set forth in 37 CFR 1.17(g) is included.

In regard to element (B), the petition does state that the information submitted was unintentionally submitted, but does not indicate that failure to expunge the information would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted. Note that a petition to expunge information characterized as trade secret material, proprietary material or any material subject to a protective order is governed by the standards discussed in MPEP section 724.05 I rather than MPEP section 724.05 II.

In regard to element (C), the availability of the information on the Patent Application Information Retrieval (PAIR) system does not establish that the information has been made public. This requirement refers to public disclosures made prior to the submission of the information to the Office.

Telephone inquiries concerning this communication should be directed to Christopher Bottorff at (571)272-6692.

David Bucci
Petitions Examiner
Office of Petitions

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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In re Application of	:	
Barber et al.	:	
Application No. 10/109,059	:	RESPONSE TO PETITION
Filed: March 29, 2002	:	
Attorney Docket No. 914-1463	:	

This is a response to the renewed petition under 37 CFR 1.59(b), filed November 19, 2008, to expunge information from the above identified application and the petition under 37 CFR 1.182, filed March 14, 2008, to expedite the petition to expunge.

The petitions are **granted**.

The requirements of 37 CFR 1.182 to expedite the petition to expunge have been satisfied. Accordingly, the request to expunge information will be processed promptly.

On November 10, 2008, exhibits were unintentionally submitted in association with two Declarations under 37 CFR 1.131. Petitioner now desires to have those exhibits expunged in exchange for corrected exhibits filed November 12, 2008 with the petition to expunge.

Upon a showing satisfactory to the Director, information, other than that forming part of the original disclosure may be expunged from an application. The renewed petition satisfies requirements A-F of MPEP section 724.05 II for expunging information that is unintentionally submitted in an application.

In a paper file the unintentionally submitted exhibits could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant; in the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Public[ly available] Documents." It is agreed that it would be appropriate in this instance to close the exhibits filed November 10, 2008, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

As a condition of this favorable treatment petitioner is required to maintain the material in question during the enforceable life of any patent arising from this application, or any patent claiming benefit of this application.

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the filing submitted in accordance with 37 CFR 1.114 on November 10, 2008.

Telephone inquiries concerning this communication should be directed to Christopher Bottorff at (571)272-6692.

David Bucei
Petitions Examiner
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

6/30/03

Fay Sharpe Fagan Minnich and McKee LLP
1100 Superior Avenue Seventh Floor
Cleveland OH 44114-2579

Dear Applicant:

The Box PGPub replacement drawings for application number 10/109,083 received on 5/5/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, 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

CARL E. MOORE, JR.
MARSHALL, GERSTEIN & BORUN
6300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6402

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FEB 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Paul Barraclough, et al. :
Application No. 10/109,095 : DECISION ON PETITION
Filed: March 28, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 30357/38354 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 10, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed Application No. 09/647,110, which is the 371 National Stage application of PCT Application No. PCT/GB99/00951 as set forth in the amendment submitted 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.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

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

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

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229. 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 1626 for appropriate action on the amendment embodied within the petition dated February 10, 2005, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/109,095	03/28/2002	1626	798	30357/38354	4	51	5

CONFIRMATION NO. 2533
CORRECTED FILING RECEIPT
OC000000017903928
OC000000017903928

Carl E. Moore, Jr.
MARSHALL, GERSTEIN & BORUN
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606-6402

Date Mailed: 01/25/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Paul Barraclough, Maidstone, UNITED KINGDOM;
Jim Hanson, West Sussex, UNITED KINGDOM;
Phil Gunning, Cambs, UNITED KINGDOM;
Daryl Rees, Sandy, UNITED KINGDOM;
Zongqin Xia, Shanghai, CHINA;
Yaer Hu, Shanghai, CHINA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of PCT/GB00/03737 09/29/2000
which is a CIP of 09/647,110 01/11/2001 ABN
which is a 371 of PCT/GB99/00951 03/26/1999

Foreign Applications

UNITED KINGDOM 9923076.5 09/29/1999

If Required, Foreign Filing License Granted: 05/13/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/109,095

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

5-beta-sapogenin and pseudosapogenin derivatives and their use in the treatment of dementia

Preliminary Class

548

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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BELL, BOYD & LLOYD LLC
P. O. BOX 1135
CHICAGO IL 60690-1135

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JUL 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Wolf, et al. :
Application No. 10/109,102 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. 112300-2845 :
For: METHOD AND APPARATUS FOR REWARDING MULTIPLE GAME PLAYERS FOR A SINGLE WIN

This is a decision on the petition under 37 CFR 1.137(b), filed on April 11, 2005 (certificate of mailing date April 8, 2005) to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the November 4, 2003 non-final Office action which set an extendable three (3) month period for reply. Applicants filed an amendment on February 9, 2004 (certificate of mailing date February 4, 2004) that was non-responsive, as was stated in the April 1, 2004 Office action. Applicants were given one month or 30 days, whichever was longer, to submit a responsive reply. On April 30, 2004 applicants submitted another reply that was deemed non-responsive, as stated in the July 28, 2004 Office action. The July 28, 2004 Office action reminded applicants that the one month period for reply set in the April 1, 2004 Office action continued to run and that extensions of time were still available. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no responsive reply being received in the Office, this application became abandoned on May 2, 2004. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

Applicants have submitted an amendment in reply to the November 4, 2003 Office action, an acceptable statement of the unintentional nature of the delay in responding to the November 4, 2003 non-final Office action, and the petition fee.[1]

The petition is **GRANTED**.

---

[1]The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that 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.

After the mailing of this decision the application will be forwarded to Technology Center 3700's technical support staff for processing of the amendment filed on April 11, 2005 (certificate of mailing date April 8, 2005).

The revocation and power of attorney filed with the instant petition has been entered and made of record. Please find enclosed power of attorney notices.

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

enclosures: notices regarding change in power of attorney

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K&L Gates LLP
P.O. Box 1135
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DEC 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,500,915	:	DECISION ON REQUEST
Wolf et al.	:	FOR RECONSIDERATION OF
Issue Date: March 10, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/109,102	:	and
Filed: March 28, 2002	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 0112300-2845	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed March 31, 2009. Patentees request that the patent term adjustment indicated in the Issue Notification (and the issued patent) be corrected from twenty-nine (29) days to sixty-two (62) 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 sixty-two **(62)** days.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On March 10, 2009, the above-identified application matured into U.S. Patent No. 7,500,915, with a revised patent term adjustment of 29 days. The instant request for reconsideration filed March 31, 2009 was timely filed. See § 1.705(d). Patentees dispute the reduction of 33 days due to "Workflow-Drawings finished" as they did not submit new drawings in February 2009, and in fact, they argue drawings have not been submitted in this case since 2002.

A review of the PALM calculations for this application reveals that the patent term adjustment was reduced by 33 days for applicants' 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 and payment of the issue fee) were filed in this application after the mailing of the notice of allowance.

In view thereof, the patent term adjustment indicated in the patent should have been sixty-two **(62)** days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application 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 **SIXTY-TWO (62)** 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 : 7,500,915

DATED : **March 10, 2009** **DRAFT**

INVENTOR(S) : Wolf 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 29 days

Delete the phrase "by 29 days" and insert – by 62 days--

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C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH VA 22042-7195

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JUN 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Donald R. Owen :
Application No. 10/109,171 :
Filed: March 28, 2002 :
Attorney Docket No. 11181.0028.NPUS00 :

ON PETITION

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

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

The examiner of Technology Center AU 1653 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).

#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

OCT 10 2002

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OCT 10 2002

Office of the Director
Group 3600

Robert L. Marsh
P.O. Box 4468
Wheaton, IL 60189-4468

Paper No. 4

In re Application of:
Dale A. Ven Huizen
Serial No. 10/109,194
Filed: March 28, 2002
For: METHOD AND APPARATUS FOR IMPROVING THE EFFICIENCY OF A JOHN DEERE VACUUM PLANTER

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY)

This is a decision on the petition filed March 28, 2002 under 37 CFR 1.102 (c) to make the above-identified application special presumably under the procedure set forth in MPEP 708.02, Section V: Environmental Quality. There is no fee required for this petition.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The petition states that applicant's invention is for "a kit (that) when installed into the John Deere Planter improves its efficiency to operate between 99 and 100% efficiency" and "the invention will result in a larger harvest from corn crop thereby more efficiently using natural resources of farm land, and thereby materially enhance the quality of the environment". These statements, dealing with apparent improvements to agricultural efficiency, fail to establish for the record that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life sustaining natural elements – air, water and soil." Specifically, it is not seen how the Planter kit device of applicant's invention, by itself, acts to contribute to the maintenance or restoration of the air, soil or water. It seems to be true that a farmer may use his land more efficiently through the use of applicant's invention, but this fact does not appear to contribute to the maintenance or restoration of a life sustaining element. Since this is the criteria, and not farming efficiency, under which the petition must be decided, it is clear that the applicant has failed to meet the requirements of Section V of MPEP 708.02.

For the above stated reasons, the petition is **DISMISSED**.

Applicant's petition fee of $130. will be refunded under separate cover.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Petitioner should promptly submit such a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/SNM: 10/9/02

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MARSHALL GERSTEIN & BORUN LLP
233 S WACKER DR
SUITE 6300
SEARS TOWER
CHICAGO IL 60606-6357

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DEC 13 2005

OFFICE OF PETITIONS

In re Application of
Jamal Benbrahim :
Application No. 10/109,226 : DECISION ON
Filed: March 28, 2002 : PETITION
Attorney Docket No. 29757/P-462 :

This is in response to the petition under 37 CFR 1.137(a), filed October 12, 2004, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in view of petitioner's request that the holding of abandonment be withdrawn and that the petition fee be refunded. The petition was recently forwarded to the Office of Petitions for consideration.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file a reply to the non-final Office action mailed March 1, 2004. No extensions of time under 37 CFR 1.136(a) were obtained. No response having been received, the above-identified application became abandoned on June 2, 2004. A Notice of Abandonment was mailed on September 17, 2004.

Petitioner has supplied a copy of an Amendment, bearing a Certificate of Transmission under 37 CFR 1.8 dated July 1, 2004. The Amendment contained an authorization to charge the $110 fee for a one month extension of time and $108 excess claims fee to Deposit Account No. 13-2855. A review of Office records confirms that those fees were in fact charged to the deposit account.

In view of the above, the holding of abandonment is withdrawn.

Given the basis for granting this petition, the $110 petition fee submitted has been refunded to Deposit Account No. 13-2855.

The application file is being forwarded to Group Art Unit 3714 for consideration of the Amendment filed October 12, 2004 (Certificate of Mailing dated July 1, 2004).

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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THE HALVORSON LAW FIRM
405 W. SOUTHERN AVE., STE 1
TEMPE, AZ 85282

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FEB 0 7 2006

OFFICE OF PETITIONS

In re Application of :
Karren Moreland :
Application No. 10/109,252 : ON PETITION
Filed: March 26, 2002 :
Attorney Docket No. 282-003 :

This is a decision on the petition, filed October 31, 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 submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed November 25, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 26, 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) (1).

Office record show petitioner submitted $865 on December 4, 2003. The Office has applied $300 toward the publication fee. The current Issue Fee (small entity) is $700, which leaves a balance of $135. The petition can not be revive until the outstanding balance is received.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed

in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Kristofer E. Halvorson
1757 E Baseline Rd, Ste 130
Gilbert, AZ 85233

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THE HALVORSON LAW FIRM, P.C.
1757 E. BASELINE RD., STE 130
GILBERT, AZ 85233

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OFFICE OF PETITIONS

In re Application of	:	
Karren Moreland	:	
Application No. 10/109,252	:	ON PETITION
Filed: March 26, 2002	:	
Attorney Docket No. 282-003	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 24, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

DO NOT SEND TO WAREHOUSE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : DEC - 6 2004 Paper No.: _____

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 6711065

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 change be made?

RoChaun Johnson
308-6803

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:

OK to change

VIET Q. NGUYEN
PRIMARY EXAMINER

VN
11/1/06

SPE

2827
Art Unit

PTOL-306 (REV 7/03)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,711,065 B2

DATED : March 23, 2004

INVENTOR(S) : Danny Shum, Georg Tempel, Christoph Ludwig

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

The claims to priority of the United States patent application Serial Number s (60/179,234 filed July 31, 2000, 09/771,808 filed January 29, 2001 and 09/410,119 filed September 30, 1999)have been omitted from the bibliographic data on the above-referenced issued patent. Please add the claims to priority to the issued patent.

Since this error was not on the part of the Applicant, no fee has been enclosed.

OK
TO
enter
V.N
11/1/06

VIET Q. NGUYEN
PRIMARY EXAMINER

MAILING ADDRESS OF SENDER:

Thomas R. FitzGerald, Esq.
16 E MAIN STREET STE 210
ROCHESTER NY 14614-1808

PATENT NO. 6,711,065 B2

OCT 13 2004

FORM PTO-1050 (REV. 3-75) (Modified)
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UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

SUITER & ASSOCIATES PC
14301 FNB PARKWAY
SUITE 220
OMAHA, NE 68154-5299

COPY MAILED

JUN 1 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Russell F. McKnight	:	DECISION GRANTING
Application No. 10/109,305	:	PETITION
Filed: March 28, 2002	:	
Attorney Docket No. P1855US00	:	

This is a decision on the petition under 37 CFR 1.10(d) filed April 22, 2002, requesting that the above-identified application be accorded a filing date of March 28, 2002, rather than the presently accorded filing date of March 29, 2002.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on March 28, 2002, pursuant to the requirements of 37 CFR 1.10. While the Express Mail label no. EV087433064US shows a handwritten "date-in" of March 29, 2002, it also includes an official USPS notation in the form of a "Boys Town, NE USPS" stamp dated March 28, 2002. It is noted that the same Express Mail receipt number appears on the copy of the original transmittal letter submitted with the present petition.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on March 28, 2002.

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

The application is being returned to Initial Patent Examination Division for correction of the filing date to March 28, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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INTEL/BLAKELY
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

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FEB 07 2008

OFFICE OF PETITIONS

In re Application of :
Kishore K. Chakravorty et al. :
Application No. 10/109,313 : DECISION ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. 42P12646 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 28 December 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on 29 March 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,540.00, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Allen C. Ho at (571) 272-6052.

This application is being referred to Technology Center AU 2874 for appropriate action by the Examiner in the normal course of business on the reply received

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

Chunyan Tricia Liu
7287 Loma Linda Drive
Rockford MI 49341-9458

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NOV 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Liew & Liu :
Application No. 10/109,320 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. N/A :
For: ADVERTISEMENT SYSTEM AND METHODS FOR VIDEO-ON-DEMAND SERVICES

This is a decision on petition, filed September 25, 2007 (certificate of mailing date September 21, 2007), requesting revival of the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any reconsideration 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 "Petition under 37 CFR 1.137(a)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The petition is dismissed and the merits of the petition will not be addressed because the correspondence is not signed by a proper party.

37 CFR 1.33(b) states that any amendments and other papers filed in an application must be signed by (1) an appointed registered attorney or agent; (2) a registered attorney or agent not appointed, but acting in a representative capacity, (3) an assignee under 3.71(b); or (4) all of the named inventors.

The petition is signed by Chunyan Tricia Liu. Ms. Liu has not provided an attorney/agent registration number. Ms. Liu has not shown that she is an authorized representative of an assignee who has right to take action. It is noted that Ms. Liu is one of two joint inventors.

In short, Ms. Liu has not established that she is permitted to file amendments and other papers in this application on her own.

In any reconsideration petition, petitioner is encouraged to either (a) submit Ms. Liu's registration number; (b) submit an appropriate 3.73(b) statement on behalf of the assignee

establishing ownership of the invention, signed by a person authorized to act on behalf of the assignee (the person authorized to act on behalf of the assignee should be Ms. Liu and in this manner, the signature on instant petition will be ratified); or (c) submit a petition signed by both joint inventors.

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

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

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

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

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

Shirene Willis Brantley
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

Chunyan Tricia Liu
7287 Loma Linda Drive
Rockford MI 49341-9458

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FEB 29 2008

In re Application of :
Liew & Liu :
Application No. 10/109,320 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. N/A :
For: ADVERTISEMENT SYSTEM AND METHODS FOR VIDEO-ON-DEMAND SERVICES

This is a decision on reconsideration petition, filed January 7, 2008, requesting revival of the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any reconsideration 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 "Petition under 37 CFR 1.137(a)." 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 to the non-final Office action, mailed December 5, 2006, which set an extendable three (3) month period for reply. No extensions of time being obtained under 37 CFR 1.136(a) and no reply being filed in the Office, the above-identified application became abandoned on March 6, 2007.

Petitioners state that the applicant residing at the current correspondence address of record was living out of the country when the Office action in question was mailed. At the time the Office action in question was mailed, an unidentified person was looking after the mail to inform her if something needed her attention. However, for some reason, she lost some mail and this office action was among the mail that she never recovered. As a result, petitioners argue that the delay in responding to December 5, 2006 non-final Office action was unavoidable.

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; (2) the petition fee as set forth in § 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to

this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

This petition does not satisfy requirement (3).

With respect to (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). *See* MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

The first issue is that Ms. Liu was not the person who collected the December 5, 2006 non-final Office action. Ms. Liu was overseas when the Office action in question was mailed. An unidentified person was responsible for informing her if there was something that needed her attention. The Office has not been convinced that this unidentified person treated the correspondence with the proper degree of importance. Petitioners stand in the shoes of their chosen representative. This is a basic tenet of agency law. The Office must be assured that the unidentified person responsible for collecting the mail and informing Ms. Liu of important correspondence treated Office correspondence and other important business correspondence with the appropriate level of care. The Office requires the unidentified person who handled petitioners' mail to provide a statement as to his/her procedure for collecting the mail, opening the mail, storing the mail, and informing Ms. Liu as to due dates. What type of mail would the unidentified person inform applicant of? Was the unidentified person experienced with patent correspondence? It must be established that relying on the unidentified person to take care of applicants' patent business was a prudent thing to do.

Once it is established that relying on the unidentified person to take care of applicants' patent business was a prudent thing to do, then petitioners must establish that the December 5, 2006 non-final Office action was not received at the correspondence of record.

The showing required to establish non-receipt of an Office communication should include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the December 5, 2006 non-final Office action, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because (1) applicants did not include a statement that a thorough and fruitless search of the file jacket and docket records was conducted and (2) applicants did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Because petitioners are *pro se* applicants, docketing practices such as those employed by registered practitioners may not be followed. Therefore, a somewhat modified approach to establishing non-receipt is reasonable.

Petitioners must state that the Office communication was not received and that they searched the place where they normally would keep such communications and couldn't find it. Petitioners must explain their system for keeping track of patent matters -- where they keep the correspondence (Do petitioners have a file/ some means of organization where they keep correspondence pertaining to this application?); where they writes down due dates (This need not be a log. This may be in the form of a calendar or a date book); how they know replies are due; etc. In essence, petitioners must explain how they reminds themselves of response due dates and show that the due date for the non-final Office action was not entered into that system. The Office would like to see documentary evidence and records as may exist which would substantiate that petitioners exercised due diligence with respect to their most important business.

---

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

ALTERNATIVE VENUE

If petitioners are unable to prove that they did not receive the December 5, 2006 non-final Office action, petitioners should strongly consider filing a petition under 37 CFR 1.137(b).

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m) ($770.00); (3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

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

A revival petition fee must be submitted with a revival petition, as the fee is a statutory requirement.

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

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

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

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

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

Shirene Willis Brantley
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

Chunyan Tricia Liu
7287 Loma Linda Drive
Rockford MI 49341-9458

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JUL 3 1 2008

In re Application of :
Liew & Liu :
Application No. 10/109,320 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. N/A :
For: ADVERTISEMENT SYSTEM AND METHODS FOR VIDEO-ON-DEMAND SERVICES

This is a decision on the petition under 37 CFR 1.137(b), filed April 28, 2008, requesting revival of the above-identified application.

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

Any reconsideration 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 "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 to the non-final Office action, mailed December 5, 2006, which set an extendable three (3) month period for reply. No extensions of time being obtained under 37 CFR 1.136(a) and no reply being filed in the Office, the above-identified application became abandoned on March 6, 2007.

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

(1) the required reply, unless previously filed.;

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

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

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

The instant petition does not satisfy requirement (2) above.

The $770.00 check submitted with the present petition bounced. Please submit the $770.00 petition fee.

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Chunyan Tricia Liu
7287 Loma Linda Drive
Rockford MI 49341-9458

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OCT 22 2008

In re Application of :
Liew & Liu :
Application No. 10/109,320 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. N/A :
For: ADVERTISEMENT SYSTEM AND METHODS FOR VIDEO-ON-DEMAND SERVICES

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed August 15, 2008, requesting revival of the above-identified application.

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

The above-identified application became abandoned for failure to reply to the non-final Office action, mailed December 5, 2006, which set an extendable three (3) month period for reply. No extensions of time being obtained under 37 CFR 1.136(a) and no reply being filed in the Office, the above-identified application became abandoned on March 6, 2007.

Applicants have submitted an amendment in reply to the December 5, 2006 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the December 5, 2006 non-final Office action, and the petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 2426 for consideration of the amendment filed on September 25, 2007 and re-submitted on January 7, 2008.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOGG AND ASSOCIATES, LLC
P.O. BOX 581339
MINNEAPOLIS MN 55458-1339

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JUL 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Agizim et al..	:	
Application No. 10/109,336	:	ON PETITION
Filed: March 28, 2002	:	
Attorney Docket No. 100.029US01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 17, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an 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.

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 2600 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

Cc:

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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)
6692944	2004-02-17	10109369	2002-03-29	Q69358

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	/DJCushing/	Date (YYYY-MM-DD)	2009-02-02
Name	David J. Cushing	Registration Number	28703

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. 6692944
Issue Date: February 17,2004
Application No. 10109369
Filed: March 29,2002
Attorney Docket No. Q69358

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

This is a decision on the electronic petition, filed February 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 February 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.

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Lawrence J. Merkel
Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398

In re Application of:
Hans F. van RIETSCHOTE
Application No. 10/109,406
Filed: March 28, 2002
For: VIRTUAL MACHINE TRANSFER BETWEEN COMPUTER SYSTEMS

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

This is a decision on the petition, filed 01 March 2004, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d), states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR §1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition is deficient in that there is no statement that all claims presented are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, Applicant will make an election without traverse as a prerequisite to the grant of special status, as required by section (b).

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

LAWRENCE J. MERKEL
CONLEY, ROSE, & TAYON, P.C.
P.O. BOX 398
AUSTIN, TX 78767

In re Application of: Van Rietschote
Application No. 10/109,406
Filed: March 28, 2002
For: VIRTUAL MACHINE TRANSFER BETWEEN COMPUTER SYSTEMS

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the Request for Reconsideration filed June 3, 2004 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on March 1, 2004.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

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(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
703-308-0885

BLJ: 9/8/04

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Lawrence J. Merkel
Conley, Rose, & Tayon, P.C.
P.O. Box 398
Austin, TX 78767

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OFFICE OF PETITIONS

In re Application of 10/109,406 :
Application No. 10/109,406 : Decision on Petition
Filing Date: March 28, 2002 :
Atty. Docket No. 576000300/VRTS-0063 :

This is a decision on the petition under 37 CFR 1.181, filed September 29, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

A non-final Office action was mailed December 30, 2005.

The Office did not receive a reply to the Office action.

A Notice of Abandonment was mailed September 19, 2006.

Petitioner requests withdrawal of the holding of abandonment. Petitioner has proven the non-final Office action was never received. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2194 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new copy of the non-final Office action. The time period for responding to the new Office action will be set to run from the mailing date of the new Office action.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

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OFFICE OF PETITIONS

In re Application of	:	
Hans F. van Rietschote	:	DECISION ON APPLICATION
Application No. 10/109,406	:	FOR
Filed: March 28, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
05760-00300/VRTS 0063	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER § 1.705(B)," filed on October 31, 2008. Applicants request that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from zero (0) days to five hundred eighteen (518) days.

The application for patent term adjustment is **GRANTED-IN-PART.**

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 EIGHTEEN (18) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 22, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. The instant application for patent term adjustment was timely filed.[1]

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

[1] PALM records show that the issue fee payment was also received on October 31, 2008.

Applicants assert that a period of 401 days of patent term adjustment for Office delay should be entered for the failure of the Office to mail an office action within four (4) months of the filing of the reply filed on March 26, 2007, pursuant to 37 CFR 1.703(a)(2). Specifically, applicants assert that an office action was mailed on April 30, 2008, which was four (4) months and 401 days after the filing of the reply filed on March 26, 2007.

The Office has considered applicants' argument, but does not find it persuasive.

Pursuant to 37 CFR 1.702(a)(2), the period of adjustment under § 1.702(a) is the sum of the following period:

> (2)The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed 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.

37 CFR 1.704(c)(7) states that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

In this instance, the reply filed on March 26, 2007, was not complete. The Office mailed a Notice of Non-Compliant Amendment (37 CFR 1.121) on December 26, 2007, informing applicants that the reply filed on March 26, 2007 was incomplete. Applicants did not submit a complete reply under 37 CFR 1.111 until January 11, 2008. Thereafter, the Office responded with the mailing of

a non-final office action on April 30, 2008, within four months after the date the reply under 37 CFR 1.111 was filed. See 37 CFR 1.703(a)(2). Thus, the Office will not be assessed any period of delay under 37 CFR 1.702(a)(2).

Applicants further assert that the entry of a period of reduction of patent term adjustment of 291 days for applicant delay under 37 CFR 1.704(c)(7) is incorrect. Specifically, applicants argue that the reply filed on March 26, 2007 was not non-responsive, as it "was fully responsive to all rejections and objections in the previous Office Action." Applicant argues that "failure to identify support for amendments is not a proper ground for holding a reply to be non-responsive."

Applicant's argument has been considered, but is not well taken. The Notice mailed on November 26, 2007 noted that the applicant did not indicate which figures, lines, or paragraphs from the specification that support the newly added limitations of the claims. In this regard, the examiner determined that the amendment was not in compliance with 37 CFR 1.4 and/or 1.121. On January 11, 2008, a reply which properly addressed the deficiencies in the reply of March 26, 2007, was filed. Accordingly, the amendment filed on March 26, 2007, is confirmed to have contained an omission within the meaning of 37 CFR 1.704(c)(7). As such, entry of the period of reduction of 291 days of patent term adjustment for applicant delay is proper and will not be removed.

Applicants argue that the period of reduction of 361 of patent term adjustment for filing a response to the office action mailed on December 30, 2005 four (4) months and 361 days after the mailing of that office action is not warranted.

In this regard, applicants are correct. A review of the application history reveals that no response to the office action mailed on December 30, 2005 was considered timely filed by the Office and the application became abandoned. Applicants were advised of the abandonment by notice mailed September 19, 2006. In response, on September 29, 2006, applicants filed a petition to withdraw the holding of abandonment. It is specifically noted that the petition to withdraw the holding of abandonment was filed within two months from the mailing date of a notice of abandonment. Thus, there was no applicant delay within the meaning of 37 CFR 1.704(c)(4).

Moreover, by decision mailed on December 21, 2006, the petition was granted on the basis that applicants had shown that they had never received the office action mailed on December 30, 2005. The decision mailed on December 21, 2006 stated that the holding of abandonment had been withdrawn, the office action mailed on December 30, 2005 would be remailed, and the period for reply to the office action would be reset.

On January 19, 2007, the previously-mailed office action was remailed, with a new time period for reply. On March 26, 2007, a reply to the office action was filed. The filing of a response on March 26, 2007 to the office action remailed on January 19, 2007 is within the three-month period set forth in 37 CFR 1.704(b). 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 office action mailed on December 30, 2005. The period of reduction of 361 days for applicant delay is being removed.

On November 8, 2004, a reply to the office action mailed on September 30, 2004, was filed. On January 21, 2005, an information disclosure statement (IDS) was filed, seventy-four (74) days after the filing of the reply to the office action.

37 CFR 1.704(c)(8) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: Submission of 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 IDS was not expressly requested by the examiner and did not include a statement in accordance with 37 CFR 1.704(d).[2] Accordingly, entry of a period of reduction for applicant delay of 74 days is warranted.

Applicants also note that "several IDSs were filed after the reply on March 26, 2007, ending with the IDS filed on September 27, 2007." Applicants assert entry of a period of reduction of 186 days for applicant delay is warranted.

On March 26, 2007, a reply to an office action was filed. Information disclosure statements were filed on March 26, 2007, May 15, 2007, June 7, 2007, August 3, 2007, and on September 28, 2007.

Pursuant to 37 CFR 1.704(c)(8), a period of reduction of 50 days should have been entered, counting the number of days beginning on the day after the date the initial reply was filed, March 26, 2007, and ending on the date that the first IDS was filed, May 15, 2007. See 37 CFR 1.704(c)(8).

Pursuant to 37 CFR 1.704(c)(8) a second period of reduction of 73 days should have been entered, counting the number of days beginning on the day after the date the initial reply was filed, March 26, 2007, and ending on the date that the second IDS was filed, June 7, 2007.

Pursuant to 37 CFR 1.704(c)(8) a third period of reduction of 130 days should have been entered, counting the number of days beginning on the day after the date the initial reply was filed, March 26, 2007, and ending on the date that the third IDS was filed, August 3, 2007.

Pursuant to 37 CFR 1.704(c)(8) a fourth period of reduction of 186 days should have been entered, counting the number of days

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[2] 37 CFR 1.704(d) states that a paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

beginning on the day after the date the initial reply was filed, March 26, 2007, and ending on the date that the fourth IDS was filed, September 28, 2007.

Likewise, these IDSs were not expressly requested by the examiner and did not include § 1.704(d) statements.

37 CFR 1.704(c) provides that "[c]ircumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application … will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping." The first, second, and third periods of reduction of 50, 73, and 130 days pursuant to 37 CFR 1.704(c)(8) totally overlap with the fourth period of reduction of 186 days. Accordingly, a single period of reduction of 186 days should have been entered for these four periods of reduction. However, this 186 day period, from March 26, 2007 through September 28, 2007, totally overlaps with the 291 day period from the filing of the initial reply having an omission on March 26, 2007 to the filing of a paper correcting the omission on January 11, 2008, pursuant to 37 CFR 1.704(c)(7). Accordingly, a single period of reduction of 291 days will be entered for these five periods of reduction.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is EIGHTEEN (18) days (517 (491+26) days of PTO delay, reduced by 499 (134+74+291) days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Wednesday

PALM INTRANET

Date: 5/13/2009
Time: 09:21:22

PTA Calculations for Application: 10/109406			
Application Filing Date:	03/28/2002	PTO Delay (PTO):	517
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	786
Post-Issue Petitions:	0	Total PTA (days):	18
PTO Delay Adjustment:	287		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
131	05/13/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		74	
130	05/13/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	361		
115	08/22/2008	MAIL NOTICE OF ALLOWANCE			
114	08/21/2008	ISSUE REVISION COMPLETED			
113	08/21/2008	DOCUMENT VERIFICATION			
112	08/21/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
111	01/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
110	08/15/2008	NOTICE OF ALLOWABILITY			
109	07/16/2008	DATE FORWARDED TO EXAMINER			
108	06/20/2008	RESPONSE AFTER NON-FINAL ACTION			
107	07/16/2008	CORRESPONDENCE ADDRESS CHANGE			
106	04/30/2008	MAIL NON-FINAL REJECTION			
105	04/28/2008	NON-FINAL REJECTION			
104	02/14/2008	DATE FORWARDED TO EXAMINER			
103	01/11/2008	RESPONSE AFTER NON-FINAL ACTION		291	91
102	12/26/2007	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
101	09/28/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
100	08/03/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
99	06/07/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
98	05/15/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
		INFORMATION DISCLOSURE STATEMENT			

97	03/26/2007	CONSIDERED			
96	11/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
95	08/11/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
94	02/08/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
93	08/03/2007	REFERENCE CAPTURE ON IDS			
92	10/12/2007	DATE FORWARDED TO EXAMINER			
91.1	03/26/2007	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
91	03/26/2007	RESPONSE AFTER NON-FINAL ACTION		361	60
90	09/28/2007	REFERENCE CAPTURE ON IDS			
89	09/28/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
88	09/28/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
87	08/03/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
86	08/03/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
85	06/07/2007	REFERENCE CAPTURE ON IDS			
84	06/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
83	06/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
82	01/21/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
81	01/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
80	04/14/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
79	04/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
77	05/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
76	05/15/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
75	05/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
74	03/26/2007	REFERENCE CAPTURE ON IDS			
		ELECTRONIC INFORMATION DISCLOSURE			

73.7	03/26/2007	STATEMENT			
73	03/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
72	01/19/2007	MAIL NOTICE OF RESCINDED ABANDONMENT			
71	01/18/2007	NOTICE OF RESCINDED ABANDONMENT IN TCS			
70	12/21/2006	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
69	11/22/2006	REFERENCE CAPTURE ON IDS			
68.7	11/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	11/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	09/29/2006	PETITION ENTERED			
66	08/11/2006	REFERENCE CAPTURE ON IDS			
65.7	08/11/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	08/11/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
64	09/19/2006	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
63	09/16/2006	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
62.7	02/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	02/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	01/09/2006	MISCELLANEOUS INCOMING LETTER			
60	12/30/2005	MAIL NON-FINAL REJECTION			
59	12/27/2005	NON-FINAL REJECTION			
58	12/27/2005	DATE FORWARDED TO EXAMINER			
57	12/28/2005	MAIL APPEALS CONF. REOPEN PROSEC.			
56	12/27/2005	PRE-APPEALS CONFERENCE DECISION - REOPEN PROSECUTION			
54	11/16/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	08/05/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	11/16/2005	REFERENCE CAPTURE ON IDS			
51.7	11/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

51	11/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	11/16/2005	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
49	11/16/2005	NOTICE OF APPEAL FILED			
48	10/28/2005	MAIL ADVISORY ACTION (PTOL - 303)			
47	10/27/2005	ADVISORY ACTION (PTOL-303)			
46	10/09/2005	DATE FORWARDED TO EXAMINER			
45	10/03/2005	AMENDMENT AFTER FINAL REJECTION			
44.7	08/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		134	40
44	08/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	08/19/2005	MAIL FINAL REJECTION (PTOL - 326)	26		40
42	08/18/2005	FINAL REJECTION			
41	06/07/2005	DATE FORWARDED TO EXAMINER			
40	03/24/2005	RESPONSE AFTER NON-FINAL ACTION			
39	03/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
38	02/09/2005	MAIL NON-FINAL REJECTION			
37	02/07/2005	NON-FINAL REJECTION			
36.7	08/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	08/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	12/03/2004	DATE FORWARDED TO EXAMINER			
34	11/08/2004	RESPONSE AFTER NON-FINAL ACTION			
33	11/24/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
32	08/20/2004	REFERENCE CAPTURE ON IDS			
31	09/22/2003	REFERENCE CAPTURE ON IDS			
30	06/12/2003	REFERENCE CAPTURE ON IDS			
29	12/26/2002	REFERENCE CAPTURE ON IDS			
28.7	08/20/2004	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
28	08/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	11/08/2004	WORKFLOW INCOMING AMENDMENT IFW			
26	09/30/2004	MAIL NON-FINAL REJECTION	491		-1
25	09/28/2004	NON-FINAL REJECTION			
		MAIL-RECORD PETITION DECISION OF			

24	09/09/2004	GRANTED TO MAKE SPECIAL			
23	06/03/2004	PETITION ENTERED			
22	07/27/2004	CASE DOCKETED TO EXAMINER IN GAU			
21	06/03/2004	WORKFLOW INCOMING PETITION IFW			
20.7	04/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	04/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	05/18/2004	MAIL-PETITION DECISION - DISMISSED			
15	03/01/2004	PETITION ENTERED			
14.7	02/26/2004	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
14	02/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13.7	06/12/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	06/12/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12.7	11/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	11/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11.7	09/22/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	09/22/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	02/25/2003	CASE DOCKETED TO EXAMINER IN GAU			
9.7	12/26/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	12/26/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
7	08/10/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	05/02/2002	APPLICATION DISPATCHED FROM OIPE			
5	05/01/2002	APPLICATION IS NOW COMPLETE			
4	04/15/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
3	04/14/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	04/11/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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P.O. BOX 398
AUSTIN TX 78767-0398

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OFFICE OF PETITIONS

In re Application of	:	
Hans F. van Rietschote	:	DECISION ON APPLICATION
Application No. 10/109,406	:	FOR
Filed: March 28, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
05760-00300/VRTS 0063	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(B)," filed on May 26, 2009. Applicants request reconsideration of the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from eighteen (18) days to seven hundred ten (710) days.

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

In the subject application, applicants request reconsideration of the decision mailed on May 14, 2009, which stated the patent term adjustment at the time of the mailing of the Notice of Allowance was eighteen (18) days. Specifically, applicants again argue that the period of reduction of 291 days pursuant to 37 CFR 1.704(c)(7) from the time an amendment having an omission was filed on March 26, 2007 was filed until the filing of an amendment correcting the omission was filed on January 11, 2008, was assessed in error and should be removed. Applicants further assert that a period of adjustment of 401 days for Office delay pursuant to 37 CFR 1.702(a)(2) should be entered because an Office action was mailed on April 30, 2008, 401 days after the filing of the amendment filed on March 26, 2007.

Applicants assert that the amendment filed on March 26, 2007 was not non-compliant, despite the mailing of a notice of non-compliant amendment on December 26, 2007, stating the amendment

filed on March 26, 2007 was non-compliant because the applicant did not indicate which figures, lines, or paragraphs from the specification that support the newly added limitations of the claims.

Applicants argue that:

> Neither 37 C.F.R. § 1.4 nor 37 C.F.R. § 1.121 require that Applicant identify which figures, lines, or paragraphs from the specification that support the newly added limitations to the claims. Indeed, nothing in any rule and nothing in the MPEP supports such a requirement. It is insufficient for the Examiner to merely assert that something is omitted from a Response for that Response to actually be non-compliant. Rather, the alleged omitted item must actually be required by statute, rule, or MPEP section in order for a Response to be properly held non-compliant. **Because the Response was fully responsive, compliant with all applicable rules, and included all items that were actually required, the Notice of Non-Compliant Amendment was erroneously mailed.**
>
> (emphasis in original)

Applicants' argument has been considered, but is not persuasive.

At the outset, 37 CFR 1.702(a)(2) states that 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: Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken. The Office action mailed on April 30, 2008 was mailed four (4) months and 279 days after the date the reply was filed. Accordingly, if applicant's reply of March 26, 2007 had been compliant, the period of Office delay would be 279 days, not 401 days.

Turning to applicant's argument that the reply of March 26, 2007, was not non-compliant, 37 CFR 1.121(e) states that the disclosure must be amended, when required by the Office, to correct inaccuracies of description and definition, and to

secure substantial correspondence between the claims, the remainder of the specification, and the drawings.

MPEP 714.02, states, in pertinent part, that a reply must be in compliance with 37 CFR 1.111.

37 CFR 1.111 states, in pertinent part: that

> (b) In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a *bona fide* attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

Moreover, 37 CFR 1.135(c) states that when reply by the applicant is a *bona fide* attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

A review of the record reveals the examiner determined that the amendment filed on March 26, 2007, was non-compliant. Therefore, a notice of non-compliant amendment was mailed,

setting a time period for filing a new amendment. Further, the showing of record is that the examiner determined, in issuing the Office action of April 30, 2008, that the amendment filed on January 11, 2008 was compliant. Nowhere in the Office action of April 30, 2008 did the examiner state that the Office action of March 26, 2007, was in fact, not non-compliant.

Applicants appears to argue that the amendment was not non-compliant because the omission contained in the amendment was not specifically enumerated in 37 CFR 1.121 or 1.4. Such argument is meritless because, as stated above, the showing of record is that the amendment did contain an omission requiring correction.

Further, applicants' argument that the submission of a supplemental response containing additional information "is in no way an admission that the (original) Response was incomplete" is not well taken. The Image File Wrapper is the official record of the application, and applicant's assertion is not more persuasive than the official record. To this end, the official record indicates that the amendment filed on March 26, 2007 was determined to contain an omission. Whether or not applicant "admits" that the response contained an omission is not more persuasive than the Official file.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is EIGHTEEN (18) days (517 (491+26) days of PTO delay, reduced by 499 (134+74+291) days of Applicant delay).

The previous decision on application for patent term adjustment has been reconsidered, and the request for reconsideration is dismissed.

No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the

patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Anthony Knight
Supervisor
Office of Petitions

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P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Hans F. van Rietschote	: DECISION ON REQUEST FOR
Patent Number	: 7603670	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/109,406	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/28/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1849** 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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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 05/17/2010

Applicant : Hans F. van Rietschote
Patent Number : 7603670
Issue Date : 10/13/2009
Application No: 10/109,406
Filed : 03/28/2002

: 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 **1945** 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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DEC 23 2006

Director's Office
Group 3700

Calfee Halter & Grisworld, LLP
800 Superior Avenue
Suite 1400
Cleveland, OH 44114

In re application of
Ronnie Browne

Serial Number: 10/109,413
Filed: March 28, 2002

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313

For: **SANITARY DIAPHRAGM VALVE**

The above-identified application is withdrawn from issue after payment of the issue fee to permit reopening of prosecution, due to newly discovered references. The examiner will communicate an office action to you.

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

Telephone inquiries should be directed to Eric Keasel at (571) 272-4929.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Karen M. Young

Karen M. Young
Technology Center 3700
571-272-3750

rt/ 12/20/06

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Paper No. 10

PATENT LAW OFFICES OF HEATH W. HOGLUND
256 ELEANOR ROOSEVELT STREET
SAN JUAN, PR 00918

COPY MAILED

MAY 21 2004

OFFICE OF PETITIONS

In re Application of :
Carlo, et al. :
Application No. 10/109,453 :
Filed: March 28, 2002 :
Attorney Docket No.

ON PETITION

This is a decision on the petitions under 37 CFR 1.137(a) and 37 CFR 1.137(b), filed May 10, 2004, to revive the above-identified application. This also a decision on the petition under 37 CFR 1.182.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

The petition under 3CFR 1.182 is also GRANTED.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed February 21, 2003, which set a shortened statutory 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 May 22, 2003.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (3).

---

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

---

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner argues that the inventors has no knowledge of the need to respond to the non-final Office action because the inventors were not notified by the previous counsel of record that a non-final Office action was received.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reason petitioner's argument must necessarily fail are addressed below.

In appointing Eugenio Torres as their attorney, the inventors agreed to be bound by the action, or inaction, of Mr. Torres in the prosecution of the patent application. If Mr. Torres received the non-final Office action, it is, therefore, presumed that the inventors were also in receipt of the non-final Office action because Mr. Torres was the attorney of record at the time the notice was mailed. The Patent and Trademark Office is charged with sending correspondence to the address of record and goes no further in determining whether the persons who actually prepare the response receive the communications. It is not enough to argue that the attorney of record did not notify the inventors of the non-final Office action if Mr. Torres received the Office action. The facts as presented in the instant petition do not amount to unavoidable delay because the patent attorney who had the authority to respond to the non-final Office action did receive the notice. If Mr. Torres did not receive the non-final Office action, this may be considered unavoidable delay, however; that argument was not made in the instant petition.

TREATMENT UNDER 37 CFR 1.137(b)

The petition under 37 CFR 1.137(b) is granted.

Deposit account 50-1452 will be charged $665.00 for the fee for the petition under 37 CFR 1.137(b) and $55.00 for the petition under 37 CFR 1.137(a).

The amendment filed May 10, 2004, is noted and made of record.

---

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

TREATMENT UNDER 37 CFR 1.82

The instant petition under 37 CFR 1.182 requests that the instant petition papers and the revocation of power of attorney and appointment of new attorney be accepted without the signatures of all the named inventors. Section 402.10 of the *Manual of Patent Examining Procedure* (MPEP) explains that this is permissible upon petition, but that this will result in more than one attorney or agent prosecuting the application and that all future communications must be signed by all the attorney or agents and/or by the unrepresented inventors. Section 402.10 of the MPEP further explains that:

> . . . when the acceptance of such papers results in an attorney or agent and at least one applicant or owner prosecuting the application, correspondence will be mailed to he attorney or agent. When the acceptance of such papers results in more than one attorney or agent prosecuting the application, the correspondence address will continue to be that of the attorney or agent first named in the application unless all parties agree.

In this case, Heath Hoglund is the first and only attorney presently noted; therefore, all correspondence will be mailed to Mr. Hoglund until appropriate written instructions to the contrary are received. Mr. Hoglund and inventors Carlo and Chinea must sign all communications, heretofore, until such time as inventors Carlo and Chinea execute a power of attorney appointing Mr. Hoglund or appointing another registered patent attorney.

Deposit account 50-1452 will be charged $130.00 for the instant petition fee.

The application file will be forwarded to Technology Center 1600 for further processing.

Further questions about this decision may be addressed to the undersigned at (703)305-0010

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosures: "Notice Regarding Change of Power of Attorney"
"Notice of Acceptance of Power of Attorney"

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Mailed: 5-31-06

In re application of :
Guess : DECISION ON
Serial No. 10/109,478 : PETITION
Filed : March 27, 2002 :
For: AUTOMATIC COOKING MONITOR, DEVICE, SYSTEM AND METHOD WHICH OPERATE IN ACCORDANCE WITH THE THERMAL EQUALIZATION OF A HEATED COMESTIBLE

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed May 23, 2005 and to REJOIN THE WITHDRAWN CLAIMS.

On August 22, 2005, a non-final office action was mailed, rejecting all of the claims. There were two groups of claims present in the application; one directed to cooking device and the other to a method of cooking meat. Applicant responded to the office action by filing an amendment on October 21, 2005. In the response, Applicant added claims 19-27. Claims 21-27 were directed to a method of cooking red meat. The examiner prepared a final rejection in which the examiner held that claims 21-27 were independent and distinct from the invention originally claimed. The final office action was mailed on November 28, 2005. Applicant filed an after-final request for reconsideration on February 27, 2006 including arguments traversing the restriction requirement regarding claims 21-27. The examiner did an advisory action on March 13, 2006 but did not address the restriction requirement or reply to applicant's arguments.

On March 29, 2006, the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of the finality and the rejoinder of claims 21-27.

Applicant's position for the withdrawal of the finality and the restriction requirement is that the examiner has not shown that the separate groups are distinct.

DECISION

Sections 803 and 806.05(i) of the MPEP state:

803 Restriction - When Proper

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

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In the November 28, 2005 office action, the examiner states that the claims 21-27 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The newly claimed temperatures and step of providing an indicia makes for a new and patentably distinct invention." Petitioner argues that the limitation in claim 21 of a specific temperature is supported in the specification and the limitation in claim 27 of providing indicia was originally presented and examined in original claim 8. It is noted that the examiner raised no question of new matter regarding these limitations. This argument is persuasive. Newly added claims 21-27 are directed to a method of cooking meat with steps substantially similar to claims 8 and 18, which were previously examined. The indicia limitation of claim 27 is indeed found in the method of claim 8, and the examiner has not provided any reasoning as to why the inclusion of a temperature in claim 21 would be independent and distinct from the other method claims, which also include the step of heating the meat followed by reducing the temperature. The analysis set forth above in Section 806.05(f) is required to show distinctness and the examiner has not shown the proper criteria for distinctness.

Additionally, the examiner has not established that any serious burden exists to examine all of the claims as required in Section 803 of the MPEP. The lack of a burden is further evidenced by the fact that the examiner has previously examined claims covering the same general classification of subject matter as that which was presented in newly added claims 21-27.

Accordingly, because the examiner has not shown distinctness between the groups of claims and because no undue burden of search has been shown, the restriction as set forth by the examiner is improper and the petition is **GRANTED.**

The application is being forwarded to the examiner to prepare a new office action which includes examination and action on the merits of the claim previously withdrawn from consideration due to the restriction requirement.

Jacqueline M. Stone

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

WILLIAM YOUNGER GUESS
1144 PARLANGE
BATON ROUGE LA 70806

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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NOVO NORDISK PHARMACEUTICALS, INC.
100 COLLEGE ROAD WEST
PRINCETON, NJ 08540

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NOV 05 2004

OFFICE OF PETITIONS

In re Application of :
Egon Persson :
Application No. 10/109,498 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 6286.200-US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 12, 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 Restriction Requirement mailed December 16, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 17, 2004.

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

The application file is being forwarded to Technology Center 1600, Art Unit 1636 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Mail Date: 04/21/2010

Applicant	: Kenji Otokawa	: DECISION ON REQUEST FOR
Patent Number	: 7604706	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/109,553	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **360** 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

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of
Kalle Tammi
Application No. 10/109,565
Filed: March 27, 2002
Attorney Docket No. 15-003.8

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed October 18, 2007 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned May 24, 2007 for failure to timely reply to the final Office Action mailed February 23, 2007. A response was filed May 1, 2007 but by Advisory Action of May 31, 2007, petitioner was advised that the response did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed October 1, 2007.

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

This matter is being referred to Technology Center 2617 for processing the RCE.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]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)).

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

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

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AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of
Adamietz, et al.
Application No. 10/109,567
Filed: March 27, 2002
Docket No.: OMRNP027
For: OPTICAL SENSE AND METHOD OF SUPPRESSING INTERFERENCE LIGHT THEREFOR

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 22, 2002.

The petition is **DISMISSED**.

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

The above-identified application was filed March 27, 2002 without an executed oath or declaration and naming Hubert Adamietz, Yasunobu Sakai, Martin Schurer, Folke Ojemann, Jochen Betz, and Gerold Stauss as joint inventors. Accordingly, on May 2, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge.

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

The petition lacks requirements (1) and (2) set forth above.

As to item (1), the petition lacks sufficient evidence that the non-signing inventor cannot be reached, was ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented with the application papers, refused to sign the oath or declaration.

The declaration of Jochen Betz indicates an attempt was made to reach the inventors at the inventors' last known telephone number to no avail. The declaration of Jochen Betz further states that

"attempts since then have failed to discover means of reaching Hubert Adamietz or Gerold Stauss either by mail or by telephone."

Where inability to locate a non-signing inventor is alleged, diligent effort to locate the non-signing inventor must be undertaken. Petitioner has provided no evidence that diligent effort has been made to locate the reach the non-signing inventors. Petitioner is required to undertake additional effort to locate the non-signing inventors and provide the non-signing inventors with a complete copy of the patent application (specification, claims, drawings, and oath or declaration). Details and supporting evidence regarding attempts to locate the non-signing inventors should be submitted in the form of a declaration or affidavit by one having first hand knowledge of the information contained therein. Petitioner may wish to consult telephone directories, the internet, national registries, etc., in effort to locate the non-signing inventor. Any renewed petition must be accompanied by evidence to sufficiently establish that diligent effort has been made to locate the non-signing inventors.

As to item (2), the declaration submitted herewith is unacceptable as the inventor signatures are illegible. Any renewed petition must be accompanied by an oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 9

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MAR 2 1 2003

OFFICE OF PETITIONS

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

In re Application of
Adamietz, et al.
Application No. 10/109,567
Filed: March 27, 2002
Docket No.: OMRNP027
For: OPTICAL SENSE AND METHOD OF SUPPRESSING INTERFERENCE LIGHT THEREFOR

: DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This decision is in response to the renewed petition under 37 CFR 1.47(a) filed November 13, 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).

A one (1) month extension of time is due in connection with this renewed petition. As petitioner has submitted fees in excess of the required $110.00, the remaining fees have been credited to Deposit Account No. 50-0388.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MERCHANT & GOULD PC
PO BOX 2903
MINNEAPOLIS MN 55402-0903

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NOV 23 2005

OFFICE OF PETITIONS

In re Patent No. 6,850,685	:	
Tinucci, et al.	:	LETTER REGARDING
Issue Date: February 1, 2005	:	PATENT TERM ADJUSTMENT
Application No. 10/109,576	:	
Filed: March 27, 2002	:	
Attorney Docket No. 2316.1676US01	:	

This letter is in response to paper titled "REQUEST FOR CERTIFICATE OF CORRECTION", filed May 9, 2005. Patentees request, *inter alia*, correction of the patent term adjustment indicated in the patent from zero (0) days to twenty-six (26) days.

The request is **DISMISSED**.

On or about January 14, 2005, the Office mailed applicants an issue notification letter advising applicants that the correct determination at the time of issuance of the patent is zero (0) days. On February 1, 2005, the above-identified application matured into U.S. Patent No. 6,850,685 with a patent term adjustment of zero (0) days.

Patentees should have filed a application for patent term adjustment pursuant to 37 C.F.R. § 1.705(d) within two (2) months of the issue date of the patent.

The application file is being forwarded to Group Art Unit 2839 to address the remaining Certificate of Correction request.

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

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

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United States Patent and Trademark Office
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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

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MAR 29 2006

OFFICE OF PETITIONS

In re Application of :
David A. Nuttall et al. :
Application No. 10/109,580 : DECISION ON PETITION
Filed: March 27, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 12873/04209 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 23, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**..

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

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

The instant 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 in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-fiiled provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/279,140, which was filed on March 27, 2001, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3753 for appropriate action on the amendment submitted December 23, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/279,140.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/15/10

Paper No.: —

TO SPE OF : ART UNIT 2191

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/109,101 Patent No.: 7149734B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

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: _____

Chih-Ching Chow Chih-Ching Chow 5/20/10

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/15/10

Paper No.: ——

TO SPE OF : ART UNIT 2191

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/109,101 Patent No.: 7149734B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

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: _____

WEI ZHEN SPE AU 2191 5/24/10

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ALEXANDRIA, VA 22313-1450
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ATTN: IP SERVICES, K1-53
P. O. BOX 999
RICHLAND, WA 99352

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SEP 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Heber Dale Collins :
Application No. 10/109,627 :
Filed: March 27, 2002 : ON PETITION
Patent No. 6,624,781 :
Issued: September 23, 2003 :
Attorney Docket Number: :
12993-B :

This decision is in response to the Petition, filed November 21, 2005, to correct the inventor. The petition is properly treated under 37 CFR 1.182.

Applicant files the instant petition to correct the inventor from Carolyn Collins to Heber Dale Collins. Applicant provides that Carolyn Collins is the legal representative of the deceased inventor Heber Dale Collins, and Carolyn Collins was incorrectly listed as the inventor.

The petition is **granted**.

Two separate statutory requirements must be met before a Certificate of Correction for an applicant's mistake may issue. The first statutory requirement concerns the nature, i.e., type, of the mistake for which a correction is sought. The mistake must be:

(1) of a clerical nature,
(2) of a typographical nature, or
(3) a mistake of minor character.

The second statutory requirement concerns the nature of the proposed correction. The correction must not involve changes which would:

(1) constitute new matter or
(2) require reexamination.

Accordingly, since the request to change the name of inventor from Carolyn Collins to Heber Dale Collins meets the statutory requirements, the petition may be granted upon the filing of a certificate of correction consistent with this decision.

Applicant has filed a certificate of correction.

Conclusion

A certificate of correction may issue to correct the inventor from Carolyn Collins to Heber Dale Collins.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
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. 5

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER
1300 I STREET NW
WASHINGTON, DC 20005

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MAY 12 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Stephen Bily et al :
Application No. 10/109,632 :
Filed: April 1, 2002 :
Attorney Docket No. 06484.0132 :

This is a decision on the petition under 37 CFR 1.182, filed April 29, 2003, to change the order of the names of the inventors.

The petition is granted.

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

1. Stephen Bily

2. Tim Blankenship

A corrected filing receipt with the desired order of inventorship is enclosed.

The application file is being forwarded to Technology Center AU 2674 for examination in due course.

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

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

Enclosure: Corrected Filing Receipt

SPE: D. Dayoan

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/07

TO SPE OF : ART UNIT 3612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/109,674 Patent No.: 7159923

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: _____

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3612
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 Mailed : 08/27/07

Patent No. :7159923 B2
Patent Issued :01/09/07
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

On the cover sheet, in the Form PTO-1050, please identify the error(s) the needs to be correct and submit just the error(s). **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

ARJUNA INDRAESWARAN RAJASINGHAM
6024 BRADLEY BLVD.
BETHESDA MD 20817

LMN

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Paper No.

Oliff & Berridge, PLC
P. O. Box 19928
Alexandria, VA 22320

SEP 28 2004

In re Application of:
Nakura et al
Serial No.: 10/109,684
Filed: December 20, 2001
Attorney Docket No.: **112447**

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 February 26, 2004, are hereby vacated.

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

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to T. C. Patel at (571) 272-2098.

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

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

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HOWREY LLP-EU
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR., SUITE 200
FALLS CHURCH VA 22042

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DEC 1 0 2008

OFFICE OF PETITIONS

In re Application of
Karel Van Den Berg, et al.
Application No. 10/109,695
Filed: April 1, 2002
Attorney Docket No. 04132.0125.000000

NOTICE

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

Receipt is acknowledged of the Power Of Attorney To Prosecute Applications Before The USPTO and Statement Under 37 CFR 3.73(b) filed with the instant notice on October 24, 2008. The office records will be corrected accordingly.

Petitioner authorized payment of $130.00 petition fee; however, there is no petition fee when notifying the office the change of entity. Therefore, the $130.00 is being credited to Petitioner's deposit account.

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

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/109,695	04/01/2002	Karel van den Berg	8553/255

CONFIRMATION NO. 5291

POA ACCEPTANCE LETTER

32894
HOWREY LLP-EU
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR., SUITE 200
FALLS CHURCH, VA 22042

OC000000033511904

Date Mailed: 12/09/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/24/2008.

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

/cpgibson baylor/

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

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Beom-Sik Bae	: DECISION ON REQUEST FOR
Patent Number	: 7609635	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/109,740	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAMBI FAIVRE WALTERS
PO BOX 5743
WILLIAMSBURG, VA 23188

COPY MAILED

AUG 31 2006

OFFICE OF PETITIONS

In re Application of :
Robert Koch : DECISION ON PETITION
Application No. 10/109,752 :
Filed: March 29, 2002 :
Attorney Docket No. 02-BS0009 :
(BS02073) :

This is in response to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON EVIDENCE THAT A REPLY WAS TIMELY MAILED OR FILED," filed April 15, 2006. This also responds to the PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 C.F.R. § 1.137(b)" also filed April 15, 2006.

On March 20, 2006, the Office mailed a Notice of Abandonment in the above-identified application. The application became abandoned for failure to file a timely and proper reply to the final Office action mailed July 21, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective December October 22, 2005.

Petitioner asserts that the response was timely deposited in the United States Postal Service (USPS) on July 21, 2005, with an authorization to charge the 3-month extension of time to a Credit Card. In support thereof, petitioner submits a copy of the response as she maintains it was timely filed.

Alternatively, petitioner requests that the application be revived based on unintentional delay under 37 CFR 1.137(b).

37 CFR 1.8(b) provides that:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

On instant petition, the attorney of record attests to having timely deposited the response, including a three month extension of time, in the USPS on July 21, 2005. Further, the RCE Transmittal (which also transmits the extension of time) and the amendment both include a certificate of mailing dated July 21, 2005, and signed by the attorney. The extension of time and RCE fee have now been charged to petitioner's credit card.

In view thereof, the Notice of Abandonment mailed March 20, 2006 is hereby **vacated**, and the holding of abandonment is **withdrawn**.

The petition under § 1.181 is **granted**.

No fee is required on petition under § 1.181.

As consideration of the petition under § 1.137(b) is unnecessary, the petition fee of $1,500 is being refunded. The Office of Finance will process this refund.

It is noted that petitioner also states "any petition fees due for this petition may be charged to the credit card on file." A general authorization to charge any required fees may be made to authorize those charges to a Deposit Account. See 37 CFR 1.25(b). However, the Office will not accept a general authorization to charge a credit card. See 37 CFR 1.23(b).

Technology Center AU 2643 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment, and for forwarding to the examiner for consideration of the Request for Continued Examination (RCE) and submission resubmitted on petition filed April 15, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

COPY MAILED

MAR 12 2007

OFFICE OF PETITIONS

In re Application of :
Kurt R. Matis :
Application No. 10/109,753 :
Filed: March 29, 2002 :
Attorney Docket No. 1941.001A :

ON PETITION

This is a decision on the petition, filed October 30, 2006 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 2, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 3, 2006.

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

A petition to revive cannot be granted where there is an outstanding requirement. In the instant case, there was no response to the December 2, 2005 non-final Office Action. A courtesy copy of this Office Action and the October 21, 2005 Notice Regarding Power of Attorney is being mailed with this decision. Accordingly, this petition cannot be revive until the outstanding requirement(s) is received.

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.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Robert P. Hart
28 East Jackson Building
10th Floor, Suite H528
Chicago, IL 60604

Attachments: December 2, 2005 non-final Office Action
October 21, 2005 Notice Regarding Power of Attorney

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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.
10/109,753	03/29/2002	Kurt R. Matis	1941.001A	2009

23405 7590 12/02/2005

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

EXAMINER	
HA, DAC V	

ART UNIT	PAPER NUMBER
2634	

DATE MAILED: 12/02/2005

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

Office Action Summary	Application No.	Applicant(s)	
	10/109,753	MATIS, KURT R.	
	Examiner	Art Unit	
	Dac V. Ha	2634	

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

Period for Reply

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

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

Status

1)☒ Responsive to communication(s) filed on *05 October 2005*.

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

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

Disposition of Claims

4)☒ Claim(s) *1-35* is/are pending in the application.

4a) Of the above claim(s) *9-20 and 30-35* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8 and 21-29* is/are rejected.

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

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

Application Papers

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

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

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

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

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

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

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

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

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

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

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *03/29/02*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to the election filed on 10/05/05 in which, applicant has elected Invention I, Claims 1-8, 21-29 without traverse. Further, it is noted that there are 35 claims pending in the application.

Claim Rejections - 35 USC § 103

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

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

3. **Claims 1-8, 21-29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. (US 4,792,915) (hereafter Adams) in view of Wang (US 5,604,769).

Regarding claim 21, Adams discloses the claimed subject matter including "first electrical signal" (Fig. 1, element 15); "a signal processor" (Fig. 1, combination of elements 10, 16, 18) and wherein signal distortion would be understood as part of any communication channel; "second electrical signal" (Fig. 1, element 11); "processing the first ... signal processor" (Fig. 1, elements 10, 16, 18). Even though Adams does not explicitly disclose that the signal includes "ISI", a person of ordinary skilled in the art would have understood that the noise source signal, which is pick up as the signal communicates through a channel, would include any distortion and/or interference, and the object of the adaptive filter is to compensate for such distortion and/or interference (see Wang as an example where adaptive filter is utilized to compensate for ISI from the received signal).

Regarding claim 1, similarly to claim 21 wherein "an electronic component" could have been a communication channel.

Regarding claims 2-8, 22-29, these claimed subject matter would have been design and application specific and thus, would have been obvious to one skilled in the art.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Norrell et al. (US 6,034,993) disclose Method And Apparatus For Adaptive Equalizing A Signal Received From A Remote Transmitter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dac V. Ha whose telephone number is 571-272-3040. The examiner can normally be reached on 5/4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on 571-272-3056. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dac V. Ha
Primary Examiner
Art Unit 2634

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/109,753	03/29/2002	Kurt R. Matis	1941.001A

CONFIRMATION NO. 2009

OC000000017302257

23405
HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

Date Mailed: 10/21/2005

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/05/2005 . The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received.

LASHAWN D MARKS
2600 (571) 272-2997

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LAW OFFICES OF ROBERT HART
28 EAST JACKSON BUILDING
10TH FLOOR, SUITE H528
CHICAGO, IL 60604

COPY MAILED

OCT 10 2007

OFFICE OF PETITIONS

In re Application of :
Kurt R. Matis :
Application No. 10/109,753 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 1941.001A :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

This matter is being referred to Technology Center AU 2611 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/109,753	03/29/2002	Kurt R. Matis	1941.001A

CONFIRMATION NO. 2009

OC000000026224010

35471
LAW OFFICES OF ROBERT HART
28 EAST JACKSON BUILDING
10TH FLOOR, SUITE H528
CHICAGO, IL 60604

Date Mailed: 10/10/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/15/2007.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/109,753	03/29/2002	Kurt R. Matis	1941.001A

CONFIRMATION NO. 2009

35471
LAW OFFICES OF ROBERT HART
28 EAST JACKSON BUILDING
10TH FLOOR, SUITE H528
CHICAGO, IL 60604

OC000000026223884

Date Mailed: 10/10/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/15/2007.

- 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).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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28 EAST JACKSON BUILDING
10TH FLOOR, SUITE H528
CHICAGO, IL 60604

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OCT 10 2007

In re Application of :
Kurt R. Matis :
Application No. 10/109,753 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 1941.001A :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

This matter is being referred to Technology Center AU 2611 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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WILHELM LAW SERVICES, S.C.
100 W LAWRENCE ST
THIRD FLOOR
APPLETON, WI 54911

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JAN 31 2005

OFFICE OF PETITIONS

In re Application of :
Lawrence Frank Kerscher :
Application No. 10/109,759 :
Filed: March 28, 2002 :
Attorney Docket No. 29646

ON PETITION

This is a decision on the petition, filed January 28, 2005, under 37 CFR 1.313(c)(1) 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 due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

This application is hereby withdrawn from issue.

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

This matter will be forwarded to Technology Center AU 3635.

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

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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MAY 22 2006

OFFICE OF PETITIONS

In re Application of	:	
John W. Mates	:	DECISION ON PETITION
Application No. 10/109,762	:	UNDER 37 CFR 1.137(b)
Filed: March 29, 2002	:	
Attorney Docket No. 42.P13401	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 2005, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 29, 2005 as required by the Notice of Allowance and Fee(s) Due, mailed April 29, 2005. A Notice of Abandonment was mailed on September 19, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of payment of the $1,400 issue fee and $300 publication fee; the petition fee of $1,500; and the required statement of unintentional delay have been submitted. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

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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MAILED

OCT 10 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

In re application of
William E. Kugler
Application No. 10/109,786
Filed: March 29, 2002
For: APPARATUS FOR ADJUSTING THE ELEVATION OF A PLANAR SURFACE WITH SELECTIVELY ADJUSTABLE CAPS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's Petition To Withdraw Holding of Abandonment under 37 CFR 1.181(a) filed July 21, 2003.

The petition is **DISMISSED as moot**.

A review of the application reveals that a Notice of Abandonment mailed July 1, 2003 specified that the application had become abandoned because of applicant's failure to reply to the Office Action of November 7, 2002. The applicant provides, along with the petition, a copy of the amendment that applicant argues was timely filed on March 12, 2003. A further review of the file reveals that the original copy of the amendment has since caught up with the file and is timely and a letter mailed July 15, 2003 (paper no. 5) was sent to applicant indicating that the application has been restored to pending status. Since the original of the amendment in question is now in the file and the application has already been restored to pending status, there is no need to treat the petition on the merits and it is therefore dismissed as moot.

This application is being forwarded to the examiner for treatment on the merits and consideration of the amendment filed March 12, 2003.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/ekn 10/7/03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : November 26,2007

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/109,793 Patent No.: 7200510 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: _____

_____

_____

_____

_____

12/18/07

ELISEO RAMOS-FELICIANO
SUPERVISORY PATENT EXAMINER

Art 2857

PAGE 1/1 * RCVD AT 12/18/2007 5:26:40 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/16 * DNIS:2709990 * CSID: * DURATION (mm-ss):01-00

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : November 26,2007

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/109,793 Patent No.: 7200510 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: _____

12/18/07

ELISEO RAMOS-FELICIANO
SUPERVISORY PATENT EXAMINER

AU 2857

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/17/10

TO SPE OF : ART UNIT 3767

SUBJECT : Request for Certificate of Correction for Appl. No.: 10109797 Patent No.: 7500965

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.

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

Comments: _____

_____

_____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

Newsome, Lamonte

From: Sirmons, Kevin
Sent: Wednesday, May 19, 2010 11:37 AM
To: Newsome, Lamonte; Gilbert, Andrew M. (AU3767)
Subject: SPE's Reponse 3 01-13-2006 for IFW docs (35).doc
Attachments: SPE's Reponse 3 01-13-2006 for IFW docs (35).doc

An X has been placed in the box for approval.

Kevin

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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JJGJr: 10-04

Paper No: __

DANN, DORFMAN,
HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

COPY MAILED

OCT 27 2004

OFFICE OF PETITIONS

In re Application of
Maliga, et al.
Application No. 10/109/812
Filed: 29 March, 2002
Attorney Docket No.: RUT.00-0038CIP

ON PETITION

This is a decision on the petition filed (with fee) via FAX on 21 June, 2004, under 37 C.F.R. §1.182.

The petition is **DISMISSED**, and it does not appear that the petition fee was previously charged.

BACKGROUND

The petition alleges that, due to information received from the Office in the wake of the anthrax attacks on the US Postal Service (USPS) Petitioner filed responses to the Notice of Missing Parts mailed on 16 May, 2002, with reply due on 16 July, 2002. However, Petitioner shipped the papers via a private courier (Federal Express) by which they could not obtain benefit of 37 C.F.R. §1.8, rather than via the USPS by which they could, and the papers and other materials were not received at the Office until 18 July, 2002–two days after the due date.

Petitioner notes that the papers filed carried an authorization for fees and the Office should have charged a one- (1-) month extension of time in connection with the filing to make the filing timely.

Petitioner requests that the Office now either grant a timely filing of the materials or charge the previously authorized fee for extension of time to make timely the filing.

Neither action is necessary at this time.

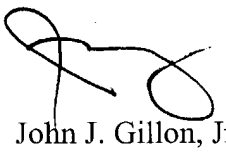
A fee for a one- (1-) month extension of time was charged by the Office to Deposit Account 04-

1406, consistent with Petitioner's authorization, upon receipt of the papers in question.

Therefore, the instant petition is dismissed as moot.

The file is released to the Examiner to await Petitioner's response to the outstanding Office action.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.



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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/109,828	03/29/2002	John A. Starkovich	NGC-207/11-1171	5482

32205 7590 05/02/2005

PATTI & BRILL
ONE NORTH LASALLE STREET
44TH FLOOR
CHICAGO, IL 60602

EXAMINER	
EASHOO, MARK	

ART UNIT	PAPER NUMBER
1732	

DATE MAILED: 05/02/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

4/29/05

In re Application of :
John A. Starkovich :
Serial Number : 10/109,828 : WITHDRAWAL
Filed : March 29, 2002 : FROM
For : **MATERIALS AND METHOD FOR**: ISSUE
IMPROVING DIMENSIONAL STABILITY...:

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

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

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

The application is being forwarded to the examiner for action. Telephone inquiries may be directed to Michael Colaianni at 571-272-1196.

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

HARNESS, DICKEY & PIERCE, P.L.C.
P. O. Box 828
Bloomfield Hills, MI 48303

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 0 8 2006

In re Application of:
Eisuke Suekawa
Serial No.: 10/109,838
Filed: April 1, 2002
Attorney Docket No.: **220993US2**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed on May 21, 2004, resubmitted on December 20, 2004, and supplemented on March 29, 2005. The petition has been treated as a petition 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 January 2, 2003. A Notice of Abandonment was mailed on December 22, 2003.

Petitioner asserts that on April 2, 2003, a response including a letter requesting approval of drawing changes and a request for reconsideration was filed. To support this assertion, petitioner has submitted an unsigned copy of the original response and a copy of a return postcard receipt, which acknowledges receipt in the USPTO of a letter requesting approval of drawing changes and a request for reconsideration on April 2, 2003.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on April 2, 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 signed copy of the response submitted with the supplement to the petition on March 29, 2005, 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 Hien H. Phan, Special Program Examiner, at (571) 272-1606.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OIPE JC174 JUL 29 2004 PATENT & TRADEMARK OFFICE

MCDERMOTT WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON, D.C. 20005-3096

COPY MAILED

FEB 27 2004

OFFICE OF PETITIONS

In re Application of :
Tsukasa Ooishi :
Application No. 10/109,857 : ON PETITION
Filed: April 1, 2002 :
Attorney Docket No. 57454-493

This is a decision on the petition, filed February 25, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 2, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2818 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

RECEIVED MAR 01 2004 McDERMOTT WILL & EMERY WASHINGTON D.C.

[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. 6

PHILIP CHIDI NJEMANZE
NO 1 URATTA/MCC ROAD
PO BOX 302
OWERI POB30-2
NIGERIA

COPY MAILED

DEC 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Njemanze :
Application No. 10/109,867 : ON PETITION
Filed: April 1, 2002 :
For: NONINVASIVE TRANSCRANIAL DOPPLER ULTRASOUND FACE AND OBJECT RECOGNITION TESTING SYSTEM :

This is a decision on the petition under 37 CFR 1.137(a), filed November 26, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." 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 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 on July 9, 2003. A Notice of Abandonment was mailed on October 21, 2003.

Petitioner states a reply to the Office action was mailed from Texas by Federal Express on May 26, 2003. The record fails to establish the reply was ever received by the Office.

A grantable petition under 37 CFR 1.137(a) must be accompanied by 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.

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

person in relation to his most important business?"[2] A lack of knowledge of, or failure to understand, a PTO rule, the content of the MPEP, or an Official Gazette notice will not constitute unavoidable delay.[3]

Application of the standard to the current facts and circumstances

Petitioner has failed to prove that the reply was properly addressed. However, such evidence would not necessarily prove unavoidable delay. Anytime a party fails to use 37 CFR 1.8 or 1.10, such party assumes the risk of delay or loss.

Petitioner's failure to file the reply at issue in compliance with 37 CFR 1.8 or 1.10 precludes a finding that the delay was unavoidable. A "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the PTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay.[4]

As stated above, petitioner is responsible for knowing the applicable patent statutes and rules. A reasonable and prudent person with knowledge of the statutes and rules, would have filed the reply in compliance with 37 CFR 1.8 or 1.10. Compliance with 37 CFR 1.8 requires the use of a certificate of mailing. Compliance with 37 CFR 1.10 requires the use of express mail. An excerpt from the MPEP is enclosed which explains the requirements of 37 CFR 1.8 and 1.10.

Since petitioner is in Nigeria, petitioner may wish to note the possibility of using Certificates of Transmission under 37 CFR 1.8 in the future.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($665 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

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

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

---

[2] See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

[4] "The procedures set out in the PTO's regulations are designed to provide the type of direct evidence needed to prove when and to where a lost amendment [or other paper] was sent. Had plaintiff's counsel followed these procedures, as a 'prudent and careful man' would have done in conducting 'his most important business,' then he would have been able to provide sufficient evidence to support a showing of unavoidable delay." Krahn v. Commissioner of Patents and Trademarks, 15 U.S.P.Q.2d (BNA) 1823 (E.D. Va. 1990).

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

By hand:[5] U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: PTO/SB/65
Excerpt from MPEP concerning 37 CFR 1.8 and 1.10

[5] If the response is mailed using a service other than the United States Postal Service, such as Federal Express or United Parcel Service, then this address may be used by such service. However, if an applicant chooses to use such services, then applicant will assume the risk of delay or loss.

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

PHILIP CHIDI NJEMANZE
NO 1 URATTA/MCC ROAD
PO BOX 302
OWERI POB30-2
NIGERIA

COPY MAILED

FEB 24 2004

OFFICE OF PETITIONS

In re Application of
Njemanze
Application No. 10/109,867
Filed: April 1, 2002
For: NONINVASIVE TRANSCRANIAL DOPPLER ULTRASOUND FACE AND OBJECT RECOGNITION TESTING SYSTEM

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed January 13, 2004, and supplemented February 9, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.137(a) must be accompanied by 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.

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[2] A lack of knowledge of, or failure to understand, a PTO rule, the content of the MPEP, or an Official Gazette notice will not constitute unavoidable delay.[3]

---

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977.(Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Analysis:

A non-final Office action was mailed on April 8, 2003. A response was not received by the Office. Therefore, above-identified application became abandoned on July 9, 2003. A Notice of Abandonment was mailed on October 21, 2003.

Petitioner alleges a reply was timely mailed.

Petitioner has submitted a copy of a Federal Express International Air Way Bill indicating that a package was mailed from petitioner to Mrs. Helen Amadi in Texas on May 26, 2003. In addition, petitioner has submitted a Certificate of Mailing indicating that the correspondence was being deposited with FedEx on May 26, 2003, addressed to Assistant Commissioner for Patents and Trademarks, Washington, DC 20231.

The Office notes that the content of the Air Way Bill contradicts the content of the Certificate of Mailing. The Office is unsure whether the response was mailed to Texas or mailed directly from Nigeria to the Office. The remainder of this decision will assume the response was mailed to Texas.

The record fails to include any evidence that the paper was received by Mrs. Helen Amadi. If it was received by her, the record fails to prove that she mailed any paper to the Patent Office. If she mailed the response, the record fails to prove that the paper was received by the Office. A statement from Mrs. Amadi should be provided along with proof *from Federal Express* that she mailed the paper and that the paper was received by the Office.

If the above evidence cannot be supplied, petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($665 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

For future reference, petitioner should note that a Certificate of Mailing may only be used if a paper is mailed via the United States Postal Service and not Federal Express. For future papers, petitioner may wish to use facsimile transmission along with a proper certificate of transmission.

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:[4] U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

[4] If the response is mailed using a service other than the United States Postal Service, such as Federal Express or United Parcel Service, then this address may be used by such service. However, if an applicant chooses to use such services, then applicant will assume the risk of delay or loss.

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

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

PHILIP CHIDI NJEMANZE
NO 1 URATTA/MCC ROAD
PO BOX 302
OWERI POB30-2
NIGERIA

COPY MAILED

MAR 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Njemanze :
Application No. 10/109,867 : ON PETITION
Filed: April 1, 2002 :
For: NONINVASIVE TRANSCRANIAL DOPPLER ULTRASOUND FACE AND OBJECT RECOGNITION TESTING SYSTEM :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed March 3, 2004, to revive the above-identified application.

The petition is **granted.**

A non-final Office action was mailed on April 8, 2003. A response was not received by the Office. Therefore, above-identified application became abandoned on July 9, 2003. A Notice of Abandonment was mailed on October 21, 2003.

The instant petition seeks revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the petition is granted.

The file is now being forwarded to Technology Center 3700 for consideration of the amendment filed on November 26, 2003.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON DC 20037-3213

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Patent No. 6,844,570 :
Issued: January 18, 2005 :
Application No. 10/109,871 : ON PETITION
Filed: April 1, 2002 :
Attorney Docket No: Q69078 :

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed February 7, 2007, 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.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**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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SEP 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Mitsuru Sugawara	:	
Application No. 10/109,884	:	ON PETITION
Filed: April 1, 2002	:	
Attorney Docket No. 020359	:	

This is a decision on the petition, filed September 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 27, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2613 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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P.O. BOX 1450
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Paper No. _____

Date : September 11, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

COPY MAILED
SEP 11 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Mitsuru Sugawara
Application No. :10/109,884
Filed :April 1, 2002

The above-identified application has been assigned Patent No. 7,106,975 and an issue date of September 12, 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 September 12, 2006:

> "All reference to Patent No. 7,106,975 to Mitsuru Sugawara of Japan for OPTICAL SIGNAL PROCESSING SYSTEM appearing in the Official Gazette of September 12, 2006 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

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JUN 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Collier et al..	:	DECISION ON PETITION
Application No. 10/109,892	:	TO WITHDRAW
Filed: March 28, 2002	:	FROM RECORD
Attorney Docket No. BELL-0152/01265	:	

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 attorneys associated with Customer Number 38952 has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

cc:

LEE & HAYES, PLLC
421 W. RIVERSIDE AVE.
SUITE 500
SPOKANE WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 7

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

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JAN 22 2003

OFFICE OF PETITIONS

In re Application of
Dutra, et al.
Application No. 10/109,911
Filed: March 28, 2002
Attorney Docket No. FA1003 USA NA
For: AUTOMOTIVE COLLISION REPAIR CLAIMS MANAGEMENT METHOD AND SYSTEM

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed November 25, 2002 (certificate of mailing date November 19, 2002), requesting, in effect, partial withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed September 19, 2002, insofar as it alleges that Figure 4C described in the specification was omitted.

The application was filed on March 28, 2002. On September 19, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that Figure 4C described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figure 4C be accorded a filing date of March 28, 2002 on the basis that 7 sheets of drawing figures, including Figure 4C, were received in the Patent and Trademark Office (PTO) on March 28, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing March 28, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 7 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 7 sheets of drawing figures were filed on March 28, 2002. MPEP 503. A review of the originally filed sheets of drawings reveals that only 6 sheets are present. Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $130.00 petition fee will be credited to deposit account no.04-1928.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of March 28, 2002, using the copy of Figure 4C submitted with the instant petition. Office records will be corrected to show that 7 sheets of drawings were present on filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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PHILADELPHIA, PA 19103

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MAY 05 2006

OFFICE OF PETITIONS

In re Application of	:	
Jon Timothy Walters et al	:	
Application No. 10/109,912	:	DECISION ON PETITION
Filed: March 29, 2002	:	TO WITHDRAW
Attorney Docket No. BELL-0112/01071	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2005.

The petition is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

This application is being referred to Technology Center AU 2164 to await a reply to the final Office action mailed February 24, 2006.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: WITHERS & KEYS FOR BELL SOUTH
P.O. BOX 71355
MARIETTA, GA 30007-1355

UNITED STATES PATENT AND TRADEMARK OFFICE

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Woodcock Washburn LLP
One Liberty Place-46th Floor
Philadelphia, PA 19103

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JUL 20 2006

OFFICE OF PETITIONS

In re Application of :
Koch Robert A. :
Application No. 10/109,914 : DECISION ON PETITION
Filed: March 29, 2002 : TO WITHDRAW
Attorney Docket No. BELL-0165/01332 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that the power of attorney to all attorneys associated with Customer No. 38952 has been revoked by the assignee of the patent application on November 23,2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

for David Bucci
Petitions Examiner
Office of Petitions

cc: Withers & Keys for Bell South
P.O. Box 71355
Marietta, GA 30001-1355

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 5/16/05

rvk
Paper Number: ____

In re application of
Barth White
Serial No. 10/109,932
Filed: March 29, 2002
For: FAUX PAINTING TOOL:

: DECISION ON
: PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT under 37 CFR 1.181, filed November 08, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of October 22, 2004, for failure to timely file a proper response to the Office letter dated March 29, 2004 be withdrawn. The petitioner asserts that the Office letter of March 29, 2004 was not received by applicant.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Office letter of March 29 , 2004 was not received by petitioner. The evidence provided includes a statement by the petitioner that the Office letter of March 29, 2004 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter of March 29, 2004 was not received. Also provided are copies of the Due Date list By Date of the attorney's application docket records for the period of April 30, 2004 to August 31, 2004, where the Office letter of March 29, 2004 would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the above noted Office letter to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

QUIRK & TRATOS
3773 HOWARD HUGHES PARKWAY
SUITE 500 NORTH
LAS VEGAS, NV 89109

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Paper No. 8

CATHERINE ANNE WHEALY
P.O. BOX 220
TOLAR, TX 76476

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NOV 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Petrus Nicolaas Johannes Schreurs :
Application No. 10/109,950 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 13, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 14, 2003.

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

The application is being forwarded to Technology Center AU 1661 for further processing.

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

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Paper No. 8

CATHERINE ANNE WHEALY
P.O. BOX 220
TOLAR, TX 76476

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NOV 16 2004

OFFICE OF PETITIONS

In re Application of :
Petrus Nicolaas Scheurs :
Application No. 10/109,951 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 13, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 14, 2003.

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

The application is being forwarded to Technology Center AU 1661 for further processing.

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

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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 28 2007

OFFICE OF PETITIONS

In re Application of :

Mark G. Erlander et al. :
Application No. 10/109,953 :
Filed: March 29, 2002 :
Attorney Docket No. 48772003900 :

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 4, 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 Karen B. Bow on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed August 27, 2007 that requires a reply from the applicant.

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: **Mark G. Erlander**
442 Hillcrest Drive
Encinitas, CA 92024

cc: **Patentique PLLC**
P.O. Box 5803
Bellevue, WA 98006

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/109,953	03/29/2002	Mark G. Erlander	485772003900

CONFIRMATION NO. 3760

OC000000026059690

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 09/27/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/04/2007.

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

Yelli Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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MARK G. ERLANDER
442 HILLCREST DRIVE
ENCINITAS, CA 92024

COPY MAILED

JAN 2 1 2009

In re Application of :
Mark G. Erlander et al :
Application No. 10/109,953 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 485772003900 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 18, 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 August 27, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 1634 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Kawai Lau
P.O. Box 5803
Bellevue, WA 98006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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R. Alan Burnett
Blakely, Sokoloff, Taylor & Zafman LLP
7th Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Jai-Jein Yu et al.	:	
Application No. 10/109,957	:	DECISION ON PETITION
Filed: March 29, 2002	:	TO WITHDRAW
Attorney Docket No. 005306.P308	:	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 15, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Marina Portnova and the attorney(s) and/or agent(s) associated with the firm **BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP** have been revoked by the assignee of the patent application on September 5, 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 Terri Williams at 571-272- 2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **CSA LLP**
4807 Spicewood Springs Rd.
Bldg. 4, Suite 201
Austin, TX 78759

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/109,957	03/29/2002	Jai-Jein Yu	005306.P038

CONFIRMATION NO. 4182

OC000000020398573

OC000000020398573

60975
CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

Date Mailed: 09/12/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

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

J. Williams

TERRI S WILLIAMS
OP (571) 272-2991

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/109,957	03/29/2002	Jai-Jein Yu	005306.P038

CONFIRMATION NO. 4182

OC000000020398549

OC000000020398549

R. Alan Burnett
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 09/12/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

J. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Offic
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PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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SEP 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Gune et al. :
Application No. 10/109,973 : DECISION GRANTING PETITION
Filed: March 29, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 38481-8009US :

This is a decision on the petition, filed June 30, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that an international application directed to an invention disclosed in the above-identified application was filed with the US Receiving Office on February 10, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A corrected filing receipt, which sets forth the projected publication date of October 2, 2003, accompanies this decision on petition.

This application is being forwarded to Technology Center 2100 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: 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

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

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AUG 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Roy M. Zeighami, et. al. :
Application No. 10/109,990 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. 10019041-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on June 6, 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 August 10, 2005. A Notice of Abandonment was mailed on January 20, 2006.

In the instant petition petitioner authorized the Office to charge $500 for treatment of the instant petition. However, a petition to revive an application abandoned unintentionally under 37 CFR 1.137(b) is $1,500 (large entity). Therefore, the remaining balance of $1,000 has been charged to petitioner's deposit account, as authorized.

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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JENNIFER L. BALES
MOUNTAIN VIEW PLAZA
1520 EUCLID CIRCLE
LAFAYETTE CO 80026-1250

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OFFICE OF PETITIONS

In re Patent of :
Ye, et al. :
Patent No. 6,831,935 :
Issue Date: December 14, 2004 : Decision on Petition
Application No. 10/109,999 :
Filing Date: March 29, 2002 :
Attorney Docket No. **C01.118** :

This is a decision on the request, filed August 4, 2005, under 37 CFR 3.81(b) to accept the correction of the assignee data.

The request under 37 CFR 3.81(b) is **granted**.

Effective June 25, 2004, 37 CFR 3.81(b) has been revised to no longer require the correction of the assignee data prior to issuance of the patent. Therefore, a petition to waive the rule is unnecessary. 37 CFR 3.81(b) currently states:

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

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Pursuant to petitioner's authorization, deposit account no. 02-0725 will be charged the required $130.00 petition fee.

Petitioner has met the requirements set forth above. Therefore, the request is granted.

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

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

E. Shirene Willis
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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MCI, INC.
1133 19TH STREET NW
4TH FLOOR
WASHINGTON, DC 20036

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SEP 23 2005

OFFICE OF PETITIONS

In re Application of :
James A. Robertson et al :
Application No. 10/110,000 : DECISION GRANTING PETITION
Filed: March 29, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. RIC-01-013 :

This is a decision on the petition, filed September 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2194 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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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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1133 19TH STREET NW
4TH FLOOR
WASHINGTON, DC 20036

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of :
James A. Robertson et al :
Application No. 10/110,000 : DECISION GRANTING PETITION
Filed: March 29, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. RIC01013 :

This is a decision on the petition, filed March 14, 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 3, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2194 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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VERIZON
PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD, SUITE 500
ARLINGTON VA 22201-2909

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of	:	
ROBERTSON, et al.	:	
Application No. 10/110,000	:	DECISION GRANTING PETITION
Filed: March 29, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. RIC01013	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 30, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 11, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2194 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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ARLINGTON VA 22201-2909

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OFFICE OF PETITIONS

In re Application of :
ROBERTSON, et al. :
Application No. 10/110,000 : DECISION GRANTING PETITION
Filed: March 29, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **RIC01013** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 1, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 18, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2194 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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9TH FLOOR
ARLINGTON VA 22201-2909

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
James A. Robertson et al :
Application No. 10/110,000 : DECISION GRANTING PETITION
Filed: March 29, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. RICO1013 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 14, 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 23, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2194 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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WOLF GREENFIELD & SACKS PC
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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JUL 12 2006

OFFICE OF PETITIONS

In re Application of :
Ichiro Seto et al :
Application No. 10/110,001 : DECISION GRANTING PETITION
Filed: August 5, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. A00786/70000 :

This is a decision on the petition, filed July 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 7, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3673 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Masaaki Fukumoto et al	:	
Application No. 10/110,002	:	DECISION GRANTING PETITION
Filed: April 5, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 9683/113	:	

This is a decision on the petition, filed January 18, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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06222006

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

JUL 3 2006

In re Application of :
Lutz Axel MAY :
Application No. 10/110,007 :
Filed: July 10, 2002 :
For: Accelerometer Using Magnetic Transducer Technology :

DECISION ON PETITION

This is a decision on the petition filed December 6, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

A Notice of Non-Compliant Amendment was mailed November 14, 2003, setting a one-month shortened statutory period for filing a response. In the absence of a response, the application was held abandoned and a Notice of Abandonment was mailed November 16, 2004.

Petitioner asserts that a response titled, "Amendment," was timely filed by facsimile transmission on November 20, 2003. To support the assertion, petitioner submitted 1) a copy of the response titled, "Amendment," and 2) a copy of the certificate of transmission under 37 C.F.R. § 1.8(a) dated November 20, 2003.

The review of the application file reveals that the response titled, "Amendment," was received and matched with the file. However, the response was not noticed by either the examiner or the technical support staff and consequently the application was held to be abandoned. The application is not abandoned in fact.

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

The application file is being forwarded to the technical support staff for processing the response titled "Amendment." From there, it will be returned to the examiner for further prosecution.

Questions regarding this decision should be directed to Jose' G. Dees at 571-272-1569.

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

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STEPHAN A. PENDORF, P.A.
PENDORF & CUTLIFF
5111 MEMORIAL HIGHWAY
TAMPA, FL 33634

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JAN 29 2007

OFFICE OF PETITIONS

In re Application of Golz-Berner :
Application No. 10/110,012 : Decision on Petition
Filing Date: April 8, 2002 :
Attorney Docket No. 3975.008 :

This is a decision on the petition filed January 21, 2005 under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

The Office mailed a non-final Office action on July 1, 2004. The Office action set a shortened statutory period for reply of three (3) months. The Office did not receive a reply or a request for an extension of time. Therefore, the application became abandoned on October 2, 2004. A Notice of Abandonment was mailed January 10, 2005.

Petitioner contends the Office action was never received.

A petition to withdraw the holding of abandonment based on non-receipt of a Notice must prove that the Notice was not received at the address of record. If an Office action is not received due to a failure by an applicant to properly change the address of record, then the holding of abandonment will not be withdrawn.

The Office notes a request to change the address of record was filed July 29, 2004. The Office is unable to determine if petitioner is alleging the Office action was not received at a new address or alleging the Office action was not received at the new address. Proof the mail was not received at the new address will not warrant withdrawal of the holding of abandonment.

Any renewed petition to withdraw the holding of abandonment should discuss the change of address. Was petitioner still using the post office box during July of 2004, or was petitioner relying on the USPS to forward mail to the new address?

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed and delivered to the address of record. In order to overcome this presumption, a petition alleging non-receipt of an Office action must:

(1) include a statement from practitioner stating that the Office action was not received,

(2) attest that a search of the file jacket has been made,
(3) attest that a search of all relevant docket records has been made,
(4) include a copy of the docket record where the Office action would have been entered had it been received, and
(5) include any additional information which may be required by the Commissioner.

See MPEP 711.03(c)(I).

If petitioner was collecting mail directly from the post office box during July of 2004, petitioner should supply the information above with any request for reconsideration under 37 CFR 1.181.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (a reply to the non-final Office action), the required petition fee ($750 for a small entity and $1,500 for a large entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

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

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosed: Copy of Office action mailed July 1, 2004
Form PTO/SB/64

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.
10/110,012	04/08/2002	Karin Golz-Berner	3975.008	3265

7590 07/01/2004

Stephan A Pendoff
Pendorf & Cutliff
P O Box 20445
Tampa, FL 33622-0445

EXAMINER	
COLE, MONIQUE T	

ART UNIT	PAPER NUMBER
1743	

DATE MAILED: 07/01/2004

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

Office Action Summary	Application No.	Applicant(s)
	10/110,012	GOLZ-BERNER ET AL.
	Examiner	Art Unit
	Monique T. Cole	1743

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 April 2002*.

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

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

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

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

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3,5 and 9-11* is/are rejected.

7)☒ Claim(s) *2,4,6-8 and 12* is/are objected to.

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

Application Papers

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

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

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

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

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

Priority under 35 U.S.C. § 119

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

a)☒ All b)☐ Some * c)☐ None of:

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

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

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

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

Attachment(s)

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

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 11 recites the limitation "wherein the first layer contains an isostearate derivative and the second layer is an aqueous." There is insufficient antecedent basis for this limitation in the claim. Claim 1 recites that the first layer is an oil phase and the second layer is selected from the group consisting of aqueous, aqueous-alcoholic and isostearate. How can the isostearate now act as the oil component? Further clarification is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 9 & 10 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,213,799 to Goring (herein referred to as "Goring").

Goring teaches a two phase cosmetic comprising a transparent oil phase and a transparent aqueous phase (abstract). The oil phase comprises silicone oil and the aqueous phase may comprise triglycerol isostearate. The silicone oil is used in an about seven times that of the

triglycerol isostearate. See col. 1, lines 35-40; col. 2, lines 25-40. The composition develops two separate, clear phases (col. 2, lines 42-43). Water-soluble and fat-soluble (oil-soluble) perfume oils may be used which would necessarily disperse in the appropriate phase (col. 2, lines 10-16). Additives may be used in an amount of 1% of the composition. With regard to the container that the perfume is in as specified in claim 10, this claim does not patentably distinguish the composition claim and is of no consequence.

Claim Rejections - 35 USC § 103

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

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

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goring in view of USP 5,525,588 to Michetti (herein referred to as "Michetti").

Goring does not expressly teach perfume oils for the oil phase.

Michetti teaches several known perfume oils suitable to be dispersed in the oil phase of Goring. It would have been obvious to one having ordinary skill in the art to employ any of the perfume oil components taught by Michetti into the Goring composition. It has been held that it is obvious to substitute equivalents known for the same purpose to create a third composition to be used for the same purpose.

Allowable Subject Matter

7. Claims 4, 6, 7, 8 & 12 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach or suggest a water-soluble perfume oil in the instantly claimed composition; the prior art does not teach or suggest wherein after mixing the phases a third fragrance other than that already present is rendered; the prior art does not teach or suggest a composition such as claimed where up to 30% of a monovalent alcohol is used.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique T. Cole whose telephone number is 571-272-1255. The examiner can normally be reached on Monday-Thursday from 6:30 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monique T. Cole
Examiner
Art Unit 1743

MC

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ Signature	_____ Date
_____ Typed or printed name	_____ Registration Number, if applicable
_____ Address	_____ Telephone Number
_____ Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ Date	_____ Signature
	_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

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AUG 0 7 2007

OFFICE OF PETITIONS

In re Application of Golz-Berner :
Application No. 10/110,012 : Decision on Petition
Filing Date: April 8, 2002 :
Attorney Docket No. 3975.008 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2007, to revive the above-identified application.

The petition is **granted**.

The Office mailed a non-final Office action on July 1, 2004. The Office action set a shortened statutory period for reply of three (3) months. The Office did not receive a reply or a request for an extension of time. Therefore, the application became abandoned on October 2, 2004. A Notice of Abandonment was mailed January 10, 2005.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,500. Petitioner has submitted a reply to the non-final Office action. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1743 will be informed of the instant decision and the examiner will consider the merits of the amendment filed March 22, 2007, in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

17 JUL 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

#2

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Richard J. Minnich
Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue, Seventh Floor
Cleveland, Ohio 44114

In re Application of	:	
GARNER	:	DECISION ON
Application No.: 10/110,017	:	
PCT No.: PCT/US00/21845	:	PETITION UNDER
Int. Filing Date: 11 August 2000	:	
Priority Date: 25 August 1999	:	37 CFR 1.137(b)
Attorney Docket No.: EBC 2 0008 PCT	:	
For: ALPHA-HELICAL PEPTIDE NUCLEIC (ALPHA-PNA)	:	

The petition to revive under 37 CFR 1.137(b) filed 28 March 2002 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has now provided payment of the full U.S. Basic National Fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **28 March 2002**.

Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459

03 MAY 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Richard M. Klein
Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue, Seventh Floor
Cleveland, Ohio 44114

In re Application of	:	
GARNER	:	DECISION ON RENEWED
Application No.: 10/110,017	:	
PCT No.: PCT/US00/21845	:	PETITION UNDER
Int. Filing Date: 11 August 2000	:	
Priority Date: 25 August 1999	:	37 CFR 1.137(b)
Attorney Docket No.: EBC 2 00008US	:	
For: HELICAL NUCLEIOPEPTIDES	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.137(b)" filed 07 April 2004.

BACKGROUND

On 05 March 2004, applicant was mailed a decision dismissing applicant's petition to revive the present national stage application. Applicant was afforded two months to file any request for reconsideration.

On 07 April 2004, applicant filed the present renewed petition.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Applicant previously satisfied items (2) - (4) above.

A review of the application file reveals that applicant has currently satisfied item (1) in providing a compliant Sequence Listing for the present application. As such, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

CONCLUSION

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **28 March 2002**.

Derek A. Putonen
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#46

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Richard M. Klein
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1100 Superior Avenue, Seventh Floor
Cleveland, Ohio 44114

In re Application of	:	
GARNER	:	DECISION ON
Application No.: 10/110,017	:	
PCT No.: PCT/US00/21845	:	PETITION UNDER
Int. Filing Date: 11 August 2000	:	
Priority Date: 25 August 1999	:	37 CFR 1.137(b)
Attorney Docket No.: EBC 2 00008US	:	
For: HELICAL NUCLEIOPEPTIDES	:	

This decision is in response to applicant's "Petition For Revival of patent Application Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 26 January 2004.

BACKGROUND

On 17 July 2002, applicant was mailed a decision granting applicant's petition to revive the present National stage application.

On 31 July 2002, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide a nucleotide and/or amino acid sequence disclosure in compliance with 37 CFR 1.821-1.825. Applicant was afforded two months to file the response.

On 29 January 2003, applicant responded with a computer readable diskette version of the sequence listing.

On 10 June 2003, applicant was mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) informing applicant that the sequence listing filed 29 January 2003 did not comply 37 CFR 1.821-1.825 and thus was not a proper response to the Form PCT/DO/EO/905 mailed 31 July 2002. Applicant was afforded one month from the mailing of the Form PCT/DO/EO/916 or within the time remaining in the response set forth in the Form PCT/DO/EO/905, whichever was longer.

On 10 July 2003, applicant responded with a computer readable diskette version of the sequence listing.

On 30 July 2003, applicant was mailed another "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) informing applicant that the sequence listing filed 10 July

2003 did not comply 37 CFR 1.821-1.825 and thus was not a proper response to the Form PCT/DO/EO/905 mailed 31 July 2002. Applicant was afforded one month from the mailing of the Form PCT/DO/EO/916 or within the time remaining in the response set forth in the Form PCT/DO/EO/905, whichever was longer.

On 18 August 2003, applicant responded with a computer readable diskette version of the sequence listing.

On 16 December 2003, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909).

On 26 January 2004, applicant filed the present petition to revive pursuant to 37 CFR 1.137(b).

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (2), applicant included authorization to charge the $665.00 petition fee to Deposit Account No.: 06-0308.

As to Item (3), applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies Item (3).

With regard to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

Thus, applicant has satisfied Items (2) - (4) above.

However, with regard to Item (1), the proper response was the required sequence listing pursuant to 37 CFR 1.821-1.825. The computer readable form accompanying the present petition was not readable. (See attached courtesy copy of CRF Problem Report.) Accordingly, the proper reply has not been furnished.

For the reasons stated above, the petition for revival cannot be granted at this time and the application remains abandoned.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.137(b) is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

03 MAY 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Richard M. Klein
Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue, Seventh Floor
Cleveland, Ohio 44114

In re Application of	:	
GARNER	:	DECISION ON RENEWED
Application No.: 10/110,017	:	
PCT No.: PCT/US00/21845	:	PETITION UNDER
Int. Filing Date: 11 August 2000	:	
Priority Date: 25 August 1999	:	37 CFR 1.137(b)
Attorney Docket No.: EBC 2 00008US	:	
For: HELICAL NUCLEIOPEPTIDES	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.137(b)" filed 07 April 2004.

BACKGROUND

On 05 March 2004, applicant was mailed a decision dismissing applicant's petition to revive the present national stage application. Applicant was afforded two months to file any request for reconsideration.

On 07 April 2004, applicant filed the present renewed petition.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Applicant previously satisfied items (2) - (4) above.

A review of the application file reveals that applicant has currently satisfied item (1) in providing a compliant Sequence Listing for the present application. As such, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

CONCLUSION

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **28 March 2002**.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
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Knobbe Martens Olson & Bear LLP
620 Newport Center Drive
Sixteenth Floor
Newport Beach, CA 92660

In re Application of SHINOZAKI et al	:	
U.S. Application No.: 10/110,028	:	
Int. Application No.: PCT/JP00/05187	:	DECISION
Int. Filing Date: 02 August 2000	:	
Priority Date: 07 October 1999	:	
Attorney Docket No.: SAEG109.001APC	:	
For: ADHESIVE TAPE APPLICATOR	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.182" filed 27 August 2002.

BACKGROUND

On 02 August 2000, applicant filed international application PCT/JP00/05187, which claimed priority of an earlier Japan application filed 07 October 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 12 April 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 08 December 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 April 2002 (07 April 2002 was a Sunday).

On 03 April 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, a Transmittal Letter, an executed declaration, and the basic national fee required by 35 U.S.C. 371(c)(1).

On 21 June 2002, this Office mailed a communication which advised applicant of a discrepancy with respect to the name of the second inventor.

On 27 August 2002, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

A review of the application file reveals that the given name of the second inventor is listed in the international application as "Shoji" while the given name is listed in the declaration as "Hisashi". The present petition states that the mistake was the result of a translation error. The petition is accompanied by the requisite fee and by an appropriate statement from the inventor setting forth that the mistake was an inadvertent error without deceptive intent. Applicant's explanation for the discrepancy is accepted.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

The application has an International Filing Date of 02 August 2000 and a date under 35 U.S.C. 371(c) of 03 April 2002.

The application will be forwarded to the DO/EO/US for processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/110,043	06/11/2002	Masahiro Nawa	221761US0 XPCT	3344

22850 7590 08/12/2003

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

EXAMINER
MELSON, CANDICE C

ART UNIT	PAPER NUMBER
3732	14

DATE MAILED: 08/12/2003

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

UNITED STATES
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TRADEMARK OFFICE

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

Paper No. 14

In re Application of NAWA et al. :
Serial No. 10/110,043 :
Filed June 11, 2002 : **DECISION ON PETITION**
For: **ARTIFICIAL JOINT MADE FROM ZIRCONIA-ALUMINA COMPOSITE CERAMIC** : **UNDER** *37 CFR 1.48(a)*

This is a decision on the petition filed July 24, 2003 to correct the inventorship under 37 CFR 1.48.

The petition is granted

In view of the papers filed July 24, 2003 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of the following inventor: ~~**Hidashi**~~ **Kokubo**. Tadashi

JBH 9-23-03 (per oath)

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/110,043	06/11/2002	Masahiro Nawa	221761US0 XPCT	3344

22850 7590 12/23/2003

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

EXAMINER	
MELSON, CANDICE C	

ART UNIT	PAPER NUMBER
3732	11

DATE MAILED: 12/23/2003

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

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Paper No. 17

In re Application of NAWA et al. :
Serial No. 10/110,043 :
Filed June 11, 2002 : **DECISION ON PETITION**
For: **ARTIFICIAL JOINT MADE FROM ZIRCONIA-ALUMINA COMPOSITE CERAMIC** : **UNDER** *37 CFR 1.48(a)*

This is a decision on the supplemental petition filed September 11, 2003 to correct the inventorship under 37 CFR 1.48. This decision corrects the previous decision of August 12, 2003.

The petition is granted

In view of the papers filed September 11, 2003 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by correcting the one of the inventors name from Hidashi Kokubo to: **Tadashi Kokubo**. **Hidashi Kokubo** is not to be listed as an inventor.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

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

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

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Paper No. 22

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

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MAR 23 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Masahiro Nawa et al :
Application No. 10/110,043 :
Filed: July 11, 2002 :
Attorney Docket No. 221761US0 XPCT :

This is a decision on the petition, filed March 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 6, 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 3732 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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LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES, CA 90036-5679

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NOV 2 4 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
Seung-Jin Lee et al
Application No. 10/110,047
Filed: April 5, 2002
Attorney Docket No. B-4560PCT 619655-8

This is a decision on the petition filed October 2, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed July 1, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 2, 2008.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Jonathan Sharp	: DECISION ON REQUEST FOR
Patent Number	: 7605801	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/110,059	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1011** 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 : 6-6-07

TO SPE OF : ART UNIT 1746

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/110117 Patent No.: 7152612

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

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

Should coct be approved

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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

MICHAEL BARR
SUPERVISORY PATENT EXAMINER

SPE

1746
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 12

Smith, Gambrell & Russell
1850 M Street, NW, Suite 800
Washington, DC 20036

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NOV 15 2006

OFFICE OF PETITIONS

In re Application of :
Ishihara et al. :
Application No. 10/110,138 : DECISION ON PETITION
Filed: April 9, 2002 :
Attorney Docket No. 33737M017 :

This is a decision on the petition under 37 CFR 1.181, filed on July 23, 2004, to withdraw the holding of abandonment. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On March 12, 2003, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely response, the Office mailed a Notice of Abandonment on May 28, 2004

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 "1. Check for $930; 2. Petition for Extension of Time – 3 months; 3. Response to Office Action" in the USPTO on September 12, 2003. A copy of the response is 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 September 12, 2003, but was not matched with the application.

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

This matter is being referred to Technology Center Art Unit 1742.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

18 DEC 2003

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHIFF HARDIN & WAITE
6600 SEARS TOWER
233 S. WACKER DR.
CHICAGO, IL 60606-6473

In re Application of :
EKKART et al. :
Application No.: 10/110,173 : DECISION ON SUBMISSION
PCT No.: PCT/EP01/08667 :
Int. Filing Date: 26 July 2001 :
Priority Date: 07 August 2000 :
Attorney Docket No.: PO2.0163 :
For: HIGH SPEED SENSE AMPLIFIER :

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371.

BACKGROUND

On 08 April 2002, applicants filed a transmittal letter concerning a filing under 35 U.S.C. 371 accompanied by the basic national fee.

On 01 July 2003, a Notification of Missing Requirements was mailed to applicants indicating that an oath or declaration in compliance with 37-CFR 1.497(a) & (b) was required.

On 28 October 2002, applicants filed a Response to the Notification of Missing Requirements accompanied by declaration along with a request for a one month extension of time, which is granted. The declarations were executed by three of the four named inventors identified in the published international application. The declarations did not identify the first inventor named on the publication, Martin Ekkart , but identified an Ekkart Martin.

DISCUSSION

A review of the application file reveals that the given name of the applicant is listed in the international application as "Martin Ekkart" while the given name is listed in the declaration as "Ekkart Martin". No explanation is offered as to how the error in the first named inventor's name occurred, e.g. is this a correction of a transliteration or typographical error or has the inventor's name been legally changed, etc. The declaration as filed is not in compliance with 37 CFR 1.66 or 1.68 as it identifies a legal entity not identified on the international application and is unacceptable as filed.

As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. However, the Office should be notified of the error accompanied by a petition under 37 CFR 1.182 to correct the name of the inventor. In the instant application, if appropriate, applicant should submit a petition under 37 CFR 1.182 and provide an explanation as to why the first named inventor did not note a correction of his first and last name

in the published international application.

CONCLUSION

The declarations of inventors submitted by applicants on 28 October 2003 cannot be accepted as a proper response to the Notification of Missing Requirements at this time.

Applicants are required to submit a petition under 37 CFR 1.182 to correct the first name of inventor Ekkart along with an explanation of the correction within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

03 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHIFF HARDIN & WAITE
6600 SEARS TOWER
233 S. WACKER DR.
CHICAGO, IL 60606-6473

In re Application of	:
EKKART et al.	:
Application No.: 10/110,173	: DECISION ON
PCT No.: PCT/EP01/08667	:
Int. Filing Date: 26 July 2001	:RENEWED SUBMISSION
Priority Date: 07 August 2000	:
Attorney Docket No.: PO2.0163	:
For: HIGH SPEED SENSE AMPLIFIER	:

This is a decision on applicant's 23 February 2004 communication filed in the United States Patent and Trademark Office, in response to a decision mailed on 18 December 2003. The communication is being treated as a petition under 37 CFR 1.182. The petition fee of $130 will be charged to applicant's deposit account per his authorization.

On 28 October 2002, applicants filed a Response to the 01 July 2003 Notification of Missing Requirements accompanied by declaration along with a request for a one month extension of time, which is granted. The declarations were executed by three of the four named inventors identified in the published international application. The declarations did not identify the first inventor named on the publication, Martin Ekkart, but identified an Ekkart Martin.

On 18 December 2003, a decision was mailed to applicant indicating that the declaration as filed was not in compliance with 37 CFR 1.66 or 1.68 as it identified a legal entity not identified on the international application and was unacceptable as filed.

With the filing of the instant petition, counsel provides an explanation of how the error in the first named inventor's name occurred; that is, "applicant/owner informed European patent counsel of the names of the inventors, including [incorrecly} identifying the first named inventor as Martin Ekkart" rather than Ekkart Martin.

CONCLUSION

The declarations of inventors submitted by applicants on 28 October 2003 are acceptable as a proper response to the Notification of Missing Requirements.

The application will be forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) & (c)(4) date is **28 October 2003.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

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THE SCRIPPS RESEARCH INSTITUTE
OFFICE OF PATENT COUNSEL, TPC-8
10550 NORTH TORREY PINES ROAD
LA JOLLA CA 92037

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JUL 23 2008

In re Application of	:	
Barbas et al.	:	DECISION ON PETITION
Application Number: 10/110181	:	TO WITHDRAW HOLDING OF
Filing Date: 03/19/2003	:	ABANDONMENT
Attorney Docket Number: TSRI	:	
692.1 D2	:	

This is a decision on the petition, filed on May 21, 2008, to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to respond in a timely manner to the Office action requiring restriction and/or election mailed on April 6, 2007. A Notice of Abandonment was mailed on November 14, 2007.

Petitioners assert that a proper response was in fact timely filed in the form of an amendment and election in response to the restriction requirement. In support of the petition, petitioners submitted a copy of a date-stamped post card receipt acknowledging receipt of a one (1) month extension of time and a response to the restriction requirement in the United States Patent and Trademark Office (Office) on June 11, 2007. Additionally, petitioners have submitted a copy of the amendment and IDS with the present petition.

Petitioners' response to the restriction or election requirement is not of record in the file and cannot be located. However, M.P.E.P. § 503 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 PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the reply to the Office action was received in the Office but was not matched with the application file.

The date-stamped on the post card of June 11, 2007, is after the due date for the response. However, under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence 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.

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition lacks item (3). Petitioner has not provided a statement by the person who signed the Certificate of Mailing which attests on a personal knowledge basis to the previous timely mailing or transmission. Petitioners should provide a statement by registered attorney or agent Donald G. Lewis, the person who signed the Certificate of Mailing dated June 6, 2007.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] 37 CFR 1.181(f).

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OFFICE OF PATENT COUNSEL, TPC-8
10550 NORTH TORREY PINES ROAD
LA JOLLA CA 92037

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OFFICE OF PETITIONS

In re Application of	:	
Barbas et al.	:	DECISION ON PETITION
Application Number: 10/110181	:	TO WITHDRAW HOLDING OF
Filing Date: 03/19/2003	:	ABANDONMENT
Attorney Docket Number: TSRI	:	
692.1 D2	:	

This is a decision on the renewed petition, filed on September 5, 2008, to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to respond in a timely manner to the Office action requiring restriction and/or election mailed on April 6, 2007. A Notice of Abandonment was mailed on November 14, 2007. The petition filed on May 21, 2008 was dismissed on July 23, 2008.

Petitioners again assert that a proper response was in fact timely filed in the form of an amendment and election in response to the restriction requirement. In support of the petition, petitioners submitted a copy of a date-stamped post card receipt acknowledging receipt of a one (1) month extension of time and a response to the restriction requirement in the United States Patent and Trademark Office (Office) on June 11, 2007. A copy of the response to the restriction requirement has also been filed.

Petitioners' response to the restriction or election requirement is not of record in the file and cannot be located. However, M.P.E.P. § 503 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 PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the reply to the Office action was received in the Office but was not matched with the application file.

The date-stamped on the post card of June 11, 2007, is after the due date for the response. However, under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence 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.

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The copy of the response filed with the original petition contains a certificate of mailing dated June 6, 2007, signed by registered patent practitioner Donald G. Lewis. A transmittal letter was additionally filed itemizing the filing of the amendment and an extension of time request. The transmittal letter also contains a certificate of mailing dated June 6, 2007.

The present renewed petition is accompanied by a declaration by Attorney Lewis in accordance with 37 CFR 1.8(b)(3).

Furthermore, a review of Office financial records reveals that the fee for a petition for a one (1) month extension of time was received on June 11, 2007.

As petitioners have provided convincing evidence that an amendment and petition and fee for a one (1) month extension of time was timely transmitted to the USPTO on June 6, 2007, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

No petition fee is due. The $400.00 fee paid with the subject renewed petition will be credited to counsel's deposit account, as authorized in the subject petition.

The application is being referred to Technology Center Art Unit 1652 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

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

DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK, NY 10019

Mail Date: 04/20/2010

Applicant	: Izumi Hoshuyama	: DECISION ON REQUEST FOR
Patent Number	: 7635513	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/110,186	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **583** 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

Jacobson Holman PLLC
400 7th Street, N.W., Suite 600
Washington, DC 20004

In re Application of MUGFORD et al	:	
U.S. Application No.: 10/110,218	:	DECISION
Int. Application No.: PCT/GB00/04094	:	
Int. Filing Date: 23 October 2000	:	
Priority Date: 22 October 1999	:	
Attorney Docket No.: P65994US0	:	
For: A LEASH ASSEMBLY	:	

This is in response to the papers filed 14 November 2002, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 23 October 2000, applicant filed international application PCT/GB00/04094, which claimed priority of an earlier United Kingdom application filed 22 October 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 03 May 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 May 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 April 2002.

On 22 April 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 14 August 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 14 November 2002, applicant filed the present request for status under 37 CFR 1.42 along with an executed declaration.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

In the present case, the declaration filed 14 November 2002 is signed by the sole heir of deceased inventor John Fisher. This declaration is improper because it does not state the country of citizenship of the second inventor as required by 37 CFR 1.497(a)(3). The declaration is also improper because the title does not match that shown on either the international application or the transmittal letter.

The submission of the declaration executed by the sole heir of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Status under 37 CFR 1.42". No petition fee is required.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

26 NOV 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Jacobson Holman PLLC
400 7th Street, N.W., Suite 600
Washington, DC 20004

In re Application of MUGFORD et al	:	
U.S. Application No.: 10/110,218	:	DECISION
Int. Application No.: PCT/GB00/04094	:	
Int. Filing Date: 23 October 2000	:	
Priority Date: 22 October 1999	:	
Attorney Docket No.: P65994US0	:	
For: A LEASH ASSEMBLY	:	

This is in response to the "Response" filed 18 April 2003, which is being as a renewed request for status under 37 CFR 1.42.

BACKGROUND

On 23 October 2000, applicant filed international application PCT/GB00/04094, which claimed priority of an earlier United Kingdom application filed 22 October 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 03 May 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 May 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 April 2002.

On 22 April 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 14 August 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 14 November 2002, applicant filed a request for status under 37 CFR 1.42 along with an executed declaration.

On 20 February 2003, this Office mailed a decision dismissing the 14 November 2002 request for status.

On 18 April 2003, applicant filed the present renewed request for status under 37 CFR 1.42 along with a new declaration.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

The declaration filed 18 April 2003 is in compliance with 37 CFR 1.497.

CONCLUSION

For the reasons above, the renewed request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 23 October 2000 and a date under 35 U.S.C. 371(c) of 18 April 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/16/04 Paper No.: _____

TO SPE OF : ART UNIT 1758

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/110219 Patent No.: 7049036

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE

1752
Art Unit

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FEB 23 2005

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

In re Application of:
Ohuchi et al.
Serial No.: 10/110,226
Filed: August 15, 2002
Attorney Docket No.: 221532USOPCT

DECISION ON PETITION TO CONSIDER A REFERENCE ON FORM PTO-1449

This is in response to applicants' petition under 37 CFR § 1.181(a)(3) filed on January 26, 2005, requesting the "Office to invoke the supervising authority of the Commissioner and consider Petitioners' Comments on Statement of Reasons for Allowance, concurrently filed herewith, and also indicate that FR 2 769 225 listed on the European Search Report filed on June 16, 2003, has been considered". Applicants also request that the examiner acknowledge consideration by providing applicants with an initialed copy of Form PTO-1449.

This petition is somewhat confusing since there were no reasons for allowance provided by the examiner with the Notice of Allowance of November 30, 2004. However, it appears applicants simply want the French document considered and to be provided with an initialed copy of Form PTO-1449.

Applicants have provided a copy of the European Search Report as filed on June 16, 2003, a copy of the date-stamped filing receipt showing the timely filing thereof, and a copy of the English abstract for the reference.

In view of this evidence, applicants' petition is **GRANTED** and an initialed Form PTO-1449 by the examiner is forthcoming.

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

Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

JUL 27 2004

Mailed:_____

rvk
Paper Number:_____

In re application of :
Misao Konishi et al. : DECISION ON
Serial No. 10/110,244 : PETITION
Filed: April 10, 2002 :
For: PHOTOPOLYMERIZABLE RESIN COMPOSITION FOR OPTICAL RECORDING MEDIA AND OPTICAL RECORDING MEDIA USING THEM :

This is a response to the "PETITON REQUESTING WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER 37 C.F.R.1.181(a)", filed January 30, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of January 13, 2004, for failure to timely file a proper response to the Office letter dated July 02, 2003 be withdrawn. The petitioner asserts that applicants timely filed a proper response to the Office letter of July 02, 2003 on January 02, 2004.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did file the proper response to the Office letter of July 02, 2003 in a timely manner. The evidence provided includes : 1) a copy of the Response to the Office letter of July 02, 2003 and Petition for three-month Extension of Time dated January 02, 2004 with Express Mail No. EV403793821US; 2) a copy of the returned postcard for Express Mail No.EV403793755US showing receipt of the Response, Petition for three-month Extension of Time and Checks in the amount of $950.00 and $86.00 by the USPTO dated January 02, 2004; and 3) copies of Check No.12537 in the amount of $950.00 and Check No. 12541 in the amount of $86.00.

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 January 02, 2004 and then forwarded to the examiner for prompt consideration.

The instant petition was accompanied by $130.00 as a petition fee. However, a petition of this type does not require a $130.00 petition fee. Therefore, a refund of the $130.00 may be obtained by directing a copy of this decision along with a written request for such a refund to the Office of Finance.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ROSENTHAL & OSHA,L.L.P.
1221 MCKINNEY AVENUE
SUITE 2800
HOUSTON, TX 77010

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OSHA & MAY L.L.P.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

03310/026001

Mailed: JUL 27 2004

rvk
Paper Number:_____

In re application of :
Misao Konishi et al. : DECISION ON
Serial No. 10/110,244 : PETITION
Filed: April 10, 2002 :
For: PHOTOPOLYMERIZABLE RESIN COMPOSITION FOR OPTICAL RECORDING MEDIA AND OPTICAL RECORDING MEDIA USING THEM :

This is a response to the "PETITON REQUESTING WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER 37 C.F.R.1.181(a)", filed January 30, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of January 13, 2004, for failure to timely file a proper response to the Office letter dated July 02, 2003 be withdrawn. The petitioner asserts that applicants timely filed a proper response to the Office letter of July 02, 2003 on January 02, 2004.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did file the proper response to the Office letter of July 02, 2003 in a timely manner. The evidence provided includes : 1) a copy of the Response to the Office letter of July 02, 2003 and Petition for three-month Extension of Time dated January 02, 2004 with Express Mail No. EV403793821US; 2) a copy of the returned postcard for Express Mail No.EV403793755US showing receipt of the Response, Petition for three-month Extension of Time and Checks in the amount of $950.00 and $86.00 by the USPTO dated January 02, 2004; and 3) copies of Check No.12537 in the amount of $950.00 and Check No. 12541 in the amount of $86.00.

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Technology Center 1700.

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 January 02, 2004 and then forwarded to the examiner for prompt consideration.

The instant petition was accompanied by $130.00 as a petition fee. However, a petition of this type does not require a $130.00 petition fee. Therefore, a refund of the $130.00 may be obtained by directing a copy of this decision along with a written request for such a refund to the Office of Finance.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ROSENTHAL & OSHA,L.L.P.
1221 MCKINNEY AVENUE
SUITE 2800
HOUSTON, TX 77010

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JONATHAN P MEYER
MOTOROLA - INTELLECTUAL PROPERTY SECTION LAW DEPT.
1303 EAST ALGONQUIN ROAD
SCHAUMBURG, IL 60196

JUL 19 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Reuven MEIDAN
Application No. 10/110,267
Filed: April 9, 2002
For: METHOD FOR IMPROVING RECEPTION OF MESSAGES IN A COMMUNICATION NETWORK

DECISION ON PETITION

This is a decision on the petition filed June 22, 2005, which is treated as a Petition to Withdraw Holding of Abandonment pursuant to 37 CFR 1.181(a). No fee is required.

*The petition is **granted**.*

This application became abandoned for failure to timely file a response to the Office action mailed October 1, 2004 which set a shortened statutory period of three (3) months to reply. A Notice of Abandonment was mailed on June 14, 2005.

Petitioner alleges to have timely filed a response to the Office action on December 30, 2004. To support this position, Petitioner has included with the instant petition a copy of the response bearing a proper certificate of facsimile transmission with a transmission date of December 30, 2004. Also included with the petition is a copy of an Auto-Reply Facsimile Transmission indicating that a 9 page document from Petitioner was received in the U.S. Patent and Trademark Office on December 30, 2004.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petitioner has met the requirements above. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be forwarded to the Technology Center's technical support staff for entry of the response. From there, the file will be forwarded to the examiner for consideration in due course.

Doris To
Special Program Examiner
Technology Center 2600

24 JUL 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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#4

Pillsbury Winthrop LLP
1600 Tysons Boulevard
McLean, VA 22102

In re Application of	
YANG, Arthur Jing-Min et al.	
Application No.: 10/110,270	
PCT Application No.: PCT/US00/24472	DECISION ON
International Filing Date: 07 September 2000	
Priority Date: 07 September 1999	PETITION
Attorney Docket No.: P0290406	
For: NANOPORE REACTIVE ADSORBENTS FOR THE HIGH-EFFICIENCY REMOVAL OF WASTE SPECIES	UNDER 37 CFR 1.137(b)

Applicants' "Petition Under Rule 137(b) to Revive Unintentionally Abandoned Application," filed in the United States Patent and Trademark Office on 09 April 2002 is **GRANTED**.

BACKGROUND

On 07 September 2000, applicants filed international application PCT/US00/24472, which claimed a priority date of 07 September 1999. A demand for international preliminary examination was filed on 13 March 2001, prior to the expiration of nineteen months from the priority date. The thirty month period for entering the national stage in the United States expired at midnight on 07 March 2002.

On 09 April 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a petition to revive, payment of the petition fee and payment of the basic national fee.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicants' statement that "the entire delay in filing this application from its March 7, 2002 due date, the resulting abandonment and the delay in prosecution until the filing of a

grantable petition was unintentional," is construed to mean that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). If this is not a correct interpretation, applicants must notify the PCT Legal Office immediately. The petition fee and basic national fee have been submitted. A terminal disclaimer is not required as application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including preparation of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for filing the oath or declaration after thirty months are required.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/15/07

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/110274** Patent No.: **7078390**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: TITLE CORRECTION — SEAN McGARRY PRIMARY EXAMINER AU 1635

SPE — **Art Unit** 1635

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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MAR 20 2007

OFFICE OF PETITIONS

In re Patent of
Fukuda
Application Number: 10/110,274
Patent: 7,078,390
Attorney Docket Number: 0152-0594P
Filing Date: April 10, 2002
Issue Date: July 18, 2006

DECISION ON PETITION

This is a decision on the petition to add the assignee under 37 CFR 1.183 filed on October 19, 2006. The petition is properly treated under 37 CFR 3.81 (b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

Petitioner has submitted a $400.00 petition fee. Pursuant to petitioner's request, $270.00 is being refunded. The certificate of correction pursuant 37 CFR 1.20 (a) fee is $100.00 and the processing fee pursuant to 37 CFR 1.17(i) is $130.00. A petition fee is no longer required.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

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E. THOMAS WHEELOCK
MORRISON & FOERSTER, LLP
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PALO ALTO, CA 94304-1018

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OFFICE OF PETITIONS

In re Application of
John BOESEN, et al
Application No. 10/110,289
Filed: March 20, 2005
Attorney Docket No. 273402003700

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 28, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because: there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on March 22, 2007.

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

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

April Wise
Petitions Examiner
Office of Petitions

cc: CHRIS GEORGE
MCANDREWS, HELD &
MALLOY, LTD.
500 WEST MADISON STREET,
SUITE 3400
CHICAGO, IL 60661

06 SEP 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gregory W. Carr
Carr Law Firm, LLP
900 Jackson Street
670 Founders Square
Dallas, Texas 75202

In re Application of :
EVERITT :
Application No.: 10/110,367 : DECISION ON PETITION
PCT No.: PCT/GB00/03824 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 06 October 2000 :
Priority Date: 09 October 1999 :
Attorney Docket No.: CRL 2467001 :
For: RESISTOR BANKS :

The petition to revive under 37 CFR 1.137(b) filed 31 July 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in submitting the filing fees by the 30 months deadline under 37 CFR 1.495(b)(2) until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant previously submitted the basic national fee of $890.00 on 19 June 2002 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

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

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OFFICE OF PETITIONS

D. PETER HOCHBERG CO. L.P.A.
1940 EAST 6TH STREET
CLEVELAND, OH 44114

In re Application of
Steven Schmidt
Application No. 10/110,425
Filed: April 11, 2002
Attorney Docket No. NW0457US(#90586)

ON PETITION

This is a decision on the petition, filed March 4, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed July 2, 2003. A Notice of Abandonment was mailed on February 9, 2004. In response, on March 4, 2005, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

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

The application file is being forwarded to Technology Center AU 3617 for consideration of the amendment filed March 4, 2005.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/15/05

Paper No.: ~

TO SPE OF : ART UNIT 1742

SUBJECT : Request for Certificate of Correction on Patent No.: 6805726 B1

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

The Patent as printed is correct.

Patent claim 4 is original claim 19, which was dependent on original claim 18, now patented claim 3

Patent claim 7 is original claim 5, which was dependent on original claim 4, now patented claim 6. See attached Issue Classification sheet

Roy Van Ching — **SPE**

1742 — **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 : August 31, 2006

David E. Spaw
RANKIN, HILL, PORTER & CLARKLLP
4080 Erie Street
Willoughby, OH 44094

Patent No: 6,805,726 B1
Application No: 10/110,429
Applicant: Gerhard Wolf
Issued: October 19, 2004
Title: **METHOD FOR PRODUCING A POWDER**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

Inspection of the application for the above patent reveals that column 6, lines 8 and 16 in the patent are printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner. Per examiner, **"The patent is correct. Patent claim 4 is original claim 19, which was dependent on original claim 18, now patent claim 3 and Patent claim 7 is original claim 5, which was dependent on original claim4, now patented claim 6".**

In view of the foregoing your request in these matters are hereby **denied**.

Further correspondence should be directed to Decisions and Certificate of Correction Branch.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Rose M. Allen
Syngenta Crop Protection, Inc.
Patent and Trademark Dept.
410 Swing Road
Greensboro, North Carolina 27409

In re Application of
SENN et al.
Serial No.: 10/110,452
PCT No.: PCT/EP00/10024
Int. Filing Date: 11 October 2000
Priority Date: 13 October 1999
Atty. Docket No.: PI/5-31166A
For: METHOD FOR IMPROVING PLANT GROWTH

DECISION ON PETITION

This decision is in response to "Response to Notification of Defective Response" filed 06 November 2002, which is being treated as a Petition under 37 CFR 1.182. The $130 petition fee has been charged to Deposit Account No. 50-1676, as authorized in the transmittal letter filed 06 November 2002.

04/17/2003 SMAJARRO 00000011 501676 10110452
01 FC:1460 130.00 CH

BACKGROUND

On 11 October 2000, applicants filed international application PCT/EP00/10024 which claimed a priority date of 13 October 1999. A copy of the international application was transmitted to the United States Patent and Trademark Office ("USPTO") by the International Bureau on 19 April 2001. A Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of 19 months from the priority date. As a result, the deadline for payment of the basic national fee was 30 months from the priority date, or 13 April 2002.

On 10 April 2002, applicants filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which identified the international application as **PCT/EP00/10025**. Accompanied the transmittal letter, applicant included: an executed declaration for PCT/EP00/10024 and a copy of the international application titled "Method for Improving Plant Growth."

On 12 June 2002, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the international application number listed on the Transmittal Letter (Form PTO-1390) and the declaration were inconsistent. The notification set a two-month time limit in which to respond.

On 09 August 2002, applicants filed a "Response to Notice to File Missing Parts" which included a copy of the executed declaration filed 10 April 2002.

On 23 October 2002, the United Stated Designated/Elected Office mailed a Notice of Defective Response (Form PCT/DO/EO/913) indicating that the international application number on the Transmittal Letter (Form PTO-1390) and the executed declaration were inconsistent.

On 06 November 2002, applicants filed a "Response to Notification of Defective Response" stating "[o]n April 10, 2002, applicant erroneously listed the international application number as PCT/EP00/10025 on the Transmittal Letter submitted to the USPTO. The correct number should read as PCT/EP00/10024. The international application number on the Declaration that was originally filed on April 10, 2002, is correct." A corrected Transmittal Letter (Form PTO-1390) was included with the present response.

DISCUSSION

The "Response to Notification of Defective Response" will be treated as a petition under 37 CFR 1.182 to correct the identification of the international application in applicants' papers filed 10 April 2002. A review of the national stage papers filed 10 April 2002 and published international application PCT/EP00/10024 have been carefully reviewed, and it has been concluded that the national stage papers sufficiently identify international application PCT/EP00/10024. Pursuant to petitioner's request, the national stage papers filed 10 April 2002 will be treated as a U.S. national stage submission for PCT/EP00/10024.

The declaration has been reviewed and found to comply with the requirements under 37 CFR 1.497(a)-(b). Accordingly, the requirements under 35 U.S.C. 371(c) were completed as of 10 April 2002.

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including removal of the International Bureau papers relating to PCT/EP00/10025 from the application file; correcting PALM to indicate that the present application is the US national stage of PCT/EP00/10024 rather than PCT/EP00/10025; and according the application 35 U.S.C. 371(c) date of **10 April 2002.**

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner of Patents

Oliff & Berridge, PLC
PO Box 19928
Alexandria, VA 22320

MAILED

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Director's Office
Group 3700

In re Application of :
KRAUSS :
Serial No. 10/110,466 : DECISION ON PETITION
Filed May 7, 2002 :
For: Pilot Apparatus :

This is a decision on petitioner's request, to review the holding of abandonment, mailed October 18, 2004, for failure to respond to the Notice of Allowance of June 8, 2004.

A review of the file indicates that the Notice of Allowability and Notice of Allowance were noted in the application as mailed on the June 8, 2004. Applicant has provided a copy of their docket receipt for the application noted above. In this copy it is noted that the receipt of a Notice of Allowance and Notice of Allowability are absent.

In view of the above, the Notice of Allowance and Issue Fee Due mailed June 8, 2004, was never received by appellant. The **holding of abandonment is withdrawn**. This application is being forwarded to the examiner for appropriate action.

Richard A. Bertsch, Director
Technology Center 3700

12 JUL 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of	
OSTROVSKI et al.	
Serial No.: 10/110,473	
PCT No.: PCT/AU00/01149	DECISION ON PETITION
Int. Filing Date: 20 September 2000	
Priority Date: 20 September 1999	UNDER 37 CFR 1.137(b)
Attorney's Docket No.: 47-171	
For: SOLID STATE REDUCTION OF OXIDES	

The petition to revive under 37 CFR 1.137(b) filed 12 April 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that the "entire delay in filing the application papers from the application due date for the required reply until the filing of the present petition was unintentional"has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the basic national fee of $1,040 has been paid. The required petition fee of $1280 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration, executed by Rankin Findlay Johnston providing his residency, citizenship and mailing address, is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

24 JAN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Nixon & Vanderhye
1100 North Glebe Road
Arlington VA 22201-4714

In re Application of	:
OSTROVSKI et al.	:
Application No.: 10/110,473	:DECISION ON
PCT No.: PCT/AU00/01149	:
Int. Filing Date: 20 September 2000	: RESPONSE
Priority Date: 20 September 1999	:
Attorney Docket No.: 47-171	:
For: SOLID STATE REDUCTION OF OXIDES	:

This is a decision on applicants' "Response to Notification of Missing Requirements" filed in the United States Patent and Trademark Office (USPTO) 09 September 2002.

BACKGROUND

On 12 April 2002, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee, a petition to revive under 37 CFR 1.137(b) and declarations executed by the inventors.

On 12 July 2002, a decision granting the petition to revive was mailed to applicants indicating that an oath or declaration, executed by Rankin Findlay Johnston providing his residency, citizenship and mailing address was required.

On 29 July 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497 was required. The Notification referenced the 12 July 2002 decision.

On 09 September 2002, applicants, in response to the Notification of Missing Requirements, filed a copy of the PTO mail room date-stamped postcard indicating that executed Declarations were filed on 12 April 2002. Applicants also indicated that they had not received the decision mailed on 12 July 2002 and requested a copy.

DISCUSSION

A review of the all of the declarations provided on 12 April 2002 reveal that the declarations identify each inventor, and state the residency, citizenship and mailing address of

each inventor. Thus, the declarations are acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

The declarations submitted on 12 April 2002 are acceptable and meet the requirements of 37 CFR 1.497.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371 date is **12 April 2002.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK:cmk

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

Enclosure: copy of 12 July 2002 decision

24 OCT 2003

#6

UNITED STATES PATENT and TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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NIXON & VANDERHYE P.C.
1100 North Glebe Road, 8th
Arlington, Virginia 22201-4714

In re Application of	:	DECISIION ON
MECKLIN, Thomas	:	
Application No.: 10/110,481	:	
PCT No.: PCT/EP00/09464	:	PETITION
Int. Filing Date: 25 September 2000	:	
Priority Date: 19 October 1999	:	
Attorney's Docket No.: 3772-9	:	UNDER 37 CFR 1.181
For: MEDIA GATEWAY CONTROL	:	

This decision is in response to the "PETITION UNDER 37 CFR 1.181" filed 10 September 2003, requesting acceptance of a copy of the declaration/power of attorney purportedly filed in the USPTO on 30 April 2002. Applicant has submitted, inter alia, a copy of the 30 April 2002 PTO stamped itemized postcard receipt. The itemized postcard lists, *inter alia*, the following item: declaration/power of attorney.

BACKGROUND

In a communication from this Office on 19 August 2003 applicant was informed that a review of the application did not show that the declaration/power of attorney was filed on 30 April 2002.

On 10 September 2003, applicant submitted this petition indicating that the items indicated were in fact deposited with the USPTO filed on April 30, 2002.

DISCUSSION

Applicant's present petition accompanied by a copy of the following documents, filed purportedly, *inter alia*, with the PTO as indicated in the stamped postcard:

(1) Declaration (1 Page)
(2) Assignment

The postcard lists the above items and bears a USPTO date of stamp as 30 April 2002.

MPEP 503 provides:

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

Applicant's postcard is accepted as *prima facie* that a Declaration was deposited with the U.S. Patent and Trademark Office on 30 April 2002.

Accordingly, the date of receipt for the Declaration is 30 April 2002.

DECISION

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

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application (Form PCT/DO/EO/903) identifying a 35 U.S.C.§ 371 date of **30 April 2002**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

02 JUL 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Barbara E. Johnson
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

In re Application of
ITURRIAGA DE LA FUENTE et al.
Application No.: 10/110,502
PCT No.: PCT/EP99/07913
Int. Filing Date: 15 October 1999
Priority Date: 15 October 1998
Attorney Docket No.: 0702-020635
For: SPECIFIC GENETIC MODIFICATION OF THE ACTIVITY OF TRAHALOSE-6-PHOSPHATE SYNTHASE AND EXPRESSION. . . . . .

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 15 April 2002 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicants have submitted the basic national fee of $890 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **15 April 2002**.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

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MAY 17 2007

OFFICE OF PETITIONS

In re Patent No. 6,872,870 :
Issue Date: March 29, 2005 :
Application No. 10/110,502 : ON PETITION
Filed: April 15, 2002 :
Attorney Docket No. 0702-020635 :

This is a decision on the petition filed March 26, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 9, 2005

TO SPE OF : ART UNIT 1751

SUBJECT : Request for Certificate of Correction on Patent No.: 6,835,211

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:

_____

_____

_____

_____

_____

_____ 1751

SPE **Art Unit**

04 OCT 2002

089159
19461-085491

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Robin W. Asher
Clark Hill
500 Woodward Avenue, Suite 3500
Detroit, MI 48226-3435

In re Application of
DEMOE et al.
Serial No.: 10/110,513
PCT No.: PCT/CA00/01161
Int. Filing Date: 12 October 2000
Priority Date: 12 October 1999
Attorney's Docket No.: 19461-089159
For: A MOLD TOOL AND METHOD FOR FORMING A TRIM COVERED FOAM SUBSTRATE OF A SEAT ASSEMBLY

DECISION

This is in response to applicant's unsigned communication filed on 09 July 2002 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 12 October 2000, applicant filed international application No. PCT/CA00/01161 which claimed priority of an earlier U.S. application filed 12 October 1999. A copy of the international application was communicated to the United States by the International Bureau on 19 April 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 12 April 2002.

On 12 April 2002, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 along with authorization to charge his credit card $890 for the basic national fee using Form PTO-2038.

On 02 July 2002, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant indicating that the application was abandoned for failure to provide the full basic national fee by the thirty month period.

DISCUSSION

On 09 July 2002 applicant filed the instant unsigned communication, which appears to be a request to withdraw the holding of abandonment on the grounds that applicant had provided authorization to charge the basic national fee to his credit card. A copy of an itemized USPTO date-stamped post card receipt indicating that the Form PTO-2038 was included with the request

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CLARK HILL

for entry into national stage was attached to the communication. However, a review of the communication reveals that it is not signed by the attorney of record as required by 37 CFR 1.4(d)(1)(i). *See* MPEP 502.02. Without the authorizing signature, the communication cannot be acted upon.

It is noted that with his request for national stage entry on 12 April 2002, applicant submitted authorization to charge his credit card to pay the basic national fee of $890 using Form PTO-2038. A review of the application file indicates that the credit card approval was declined twice; once when the credit card charge was attempted by the finance office and again on 26 April 2002, when attempted by a USPTO paralegal as noted on the original transmittal request. Failure to pay the basic national fee within 30 months from the priority date results in abandonment of the application. The time for payment of the basic fee is not extendable. *See* MPEP 1893.01(b)(1). Since the basic national fee was not paid on or before the 30 month period. the application is considered abandoned.

CONCLUSION

The application remains **ABANDONED**. The application is being retained in the PCT Legal Office to await applicant's further instructions.

Any request for reconsideration on the merits of this decision must be filed within TWO (2) MONTHS from the mail date of this decision and must be in the form of a properly executed petition.

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

Richard R. Cole
Legal Examiner
PCT Legal Office

31 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Robin W. Asher
Clark Hill
500 Woodward Avenue, Suite 3500
Detroit, MI 48226-3435

In re Application of
DEMOE et al.
Serial No.: 10/110,513
PCT No.: PCT/CA00/01161
Int. Filing Date: 12 October 2000
Priority Date: 12 October 1999
Attorney's Docket No.: 19461-089159
For: A MOLD TOOL AND METHOD FOR FORMING A TRIM COVERED FOAM SUBSTRATE OF A SEAT ASSEMBLY

DECISION

This is in response to applicant's petition to revive under 37 CFR 1.137(b) filed on 03 January 2003 in the United States Patent and Trademark Office (USPTO). Since the basic national fee was not paid on or before the 30 month period or by 12 April 2002, the application was abandoned.

The petition to revive under 37 CFR 1.137(b) is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of $870 has been paid. The required petition fee of $1280 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of
Guenther HRABY, et al
Application No. 10/110,528
Filed: April 15, 2002
Attorney Docket No. 449122010200

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 August 31, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record associated with Customer Number 25227.

All attorneys/agents of record associated with Customer Number 25227 have been withdrawn.

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

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

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

There is an outstanding Office action mailed August 24, 2007 that requires a reply by the applicant.

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

April Wise
Petitions Examiner
Office of Petitions

cc: GUENTHER HRABY
JOSEF SCHOEFFELG.7
A-3021 PRESSBAUM
AUSTRIA

cc: BELL, BOYD & LLOYD, LLP
P.O. BOX 1135
CHICAGO, IL 60690

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/110,528	04/15/2002	Guenther Hraby	449122010200

CONFIRMATION NO. 9507

OC000000026065168

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 09/28/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/31/2007.

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

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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AUG 18 2005

OFFICE OF PETITIONS

In re Patent of :
Cadell et al. :
Patent No. 6,700,661 :
Issued: March 2, 2004 : ON PETITION
For: METHOD OF OPTIMIZING :
WAVELENGTH CALIBRATION :

This is a decision on the Petition, filed August 8, 2005, under 37 CFR 1.183, for waiver of 37 CFR 3.81(a), to correct the name of the assignee in the above-identified patent. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Petitions Attorney
Office of Petitions

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

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Michael J. Striker
Striker Striker Stenby
103 East Neck Road
Huntington, NY 11743

In re Application of :
WOLFF, Guenter :
Application No.: 10/110,574 :
PCT Application No.: PCT/DE00/03216 : DECISION
International Filing Date: 15 September 2000 :
Priority Date: 15 October 1999 :
Attorney Docket No.: 2094 :
For: ACTUATING UNIT FOR A :
WHEEL BRAKE OF A MOTOR :
VEHICLE :

This is in response to applicant's "Petition to Withdraw Holding of Abandonment" under 37 CFR 1.181, filed on 22 October 2003. No petition fee is due.

BACKGROUND

On 15 September 2000, applicant filed international application number PCT/DE00/03216, which claimed priority of an earlier filed German application filed on 15 October 1999. A copy of the international application was transmitted to the USPTO by the International Bureau on 26 April 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 16 March 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 15 April 2002.

On 12 April 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee.

On 25 June 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371, which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 29 September 2003, the DO/EO/US mailed a Notice of Abandonment, which indicated that the application is abandoned for failure to respond to the 25 June 2002 communication.

On 22 October 2003, applicant filed the present petition to withdraw the holding of abandonment. It is remarked that the petition indicates that a signed Declaration accompanies

the petition. However, such Declaration is not found in the filewrapper.

DISCUSSION

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With respect to item (1) above, applicant's representative has provided the required statement.

With respect to item (2) above, applicant's representative has provided the required statement.

With respect to item (3) above, the submitted docket listing for the present application is insufficient. Applicant's representative should supply a docket record which lists responses due to the USPTO on Monday, 26 August 2002, for all cases handled by the representative's firm, or if such a docket record is unavailable, for all cases handled by applicant's representative. This docket record must illustrate the absence of any listing of a response due to a Notification of Missing Requirements. The insufficiency arises because applicant's submitted docket listing pertains to responses due on 25 and 26 August 2003, not 26 August 2002, and because it is unclear whether the provided listing pertains to cases handled by applicant's representative or by the firm of applicant's representative.

CONCLUSION

Because applicant has failed to satisfy item (3) above, the petition is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No petition fee is due. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Michael La Villa
PCT Legal Administration Office
Detailee
Telephone (703) 308-6162
Facsimile (703) 308-6459

Leonard Smith
PCT Legal Administration Office
PCT Legal Examiner
Telephone: (703) 308-6461
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Enclosure:

PCT/DO/EO/905, dated 25 June 2002

26 APR 2004

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Michael J. Striker
Striker Striker Stenby
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In re Application of	:	
WOLFF, Guenter	:	
Application No.: 10/110,574	:	
PCT Application No.: PCT/DE00/03216	:	DECISION
International Filing Date: 15 September 2000	:	
Priority Date: 15 October 1999	:	
Attorney Docket No.: 2094	:	
For: ACTUATING UNIT FOR A WHEEL BRAKE OF A MOTOR VEHICLE	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.181," filed on 12 March 2004. Applicant's petition to withdraw the holding of abandonment is GRANTED. No petition fee is due.

BACKGROUND

On 12 April 2002, applicant timely filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee and a translation of the international application.

On 25 June 2002, the United States Designated Office/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371, which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 29 September 2003, the DO/EO/US mailed a Notice of Abandonment, which indicated that the application is abandoned for failure to respond to the 25 June 2002 communication.

On 22 October 2003, applicant filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment of this application on the grounds that applicant had not received the Notification of Missing Requirements, mailed on 25 June 2002.

Applicant's petition was dismissed because applicant had not adequately demonstrated non-receipt of the Notification of Missing Requirements, mailed on 25 June 2002. Particularly, applicant had not provided a copy of an appropriate docket record.

By applicant's renewed petition, filed on 12 March 2004, applicant has provided a copy of docket record that was identified, in the Decision of 11 February 2004, as necessary for proving non-receipt of the Notification of Missing Requirements.

DISCUSSION

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With respect to item (1) above, practitioner has provided the required statement, in the petition filed on 22 October 2003, that the Notification of Missing Requirements, mailed on 25 June 2002, had not been received by practitioner.

With respect to item (2) above, practitioner has provided the required statement, in the petition filed on 22 October 2003, that practitioner has searched the file jacket and docket records and that the search indicates that the Notification of Missing Requirements, mailed on 25 June 2002, had not been received.

With respect to item (3) above, practitioner has provided the required copy of office docket record, in this renewed petition, which demonstrates that the Notification of Missing Requirements, mailed on 25 June 2002, is not entered in the docket record of practitioner's office where it would have been entered had it been received and docketed.

By satisfying items (1) through (3) above, non-receipt of the Notification of Missing Requirements, mailed on 25 June 2002, has been demonstrated, and so applicant's petition to withdraw the holding of abandonment for failure to respond to the Notification of Missing Requirements is granted.

As was mentioned in the Decision of 11 February 2004, applicant's executed inventor declaration or oath has not been received. As well, applicant has not paid the appropriate fee for providing an inventor oath or declaration after thirty months from the priority date. Hence, applicant has not satisfied the requirements of 35 USC 371(c)(4).

A copy of the Notification of Missing Requirements, mailed on 25 June 2002, accompanied the Decision, mailed on 11 February 2004. The time period for reply to the Notification of Missing Requirements FORM PCT/DO/EO 905 (371 Formalities Notice), mailed on 25 June 2002, was reset to begin on the re-mailing date of 11 February 2004.

CONCLUSION

The petition to withdraw the holding of abandonment is GRANTED.

The application has an international filing date of 15 September 2000 under 35 U.S.C. 363.

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing, including awaiting receipt of an executed inventor oath or declaration and necessary fees.

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OFFICE OF PETITIONS

In re Application of
Yoshihiro Tokudome, et al.
Application No. 10/110,590
Filed: April 11, 2002
Attorney Docket No. TOYAM93.001APC

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, filed December 1, 2004.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid August 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 3763 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).

02 AUG 2002

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Law Offices of Karl Hormann
86 Sparks Street
Cambridge, MA 02138-2216

In re Application of	
PUTTKAMMER, Frank	
Application No.: 10/110,600	DECISION ON
PCT No.: PCT/DE00/01908	
Int. Filing Date: 14 June 2000	PETITION
Priority Date: 15 June 1999	
Attorney Docket No.: 010491-US	UNDER 37 CFR 1.181
For: OPTICALLY VARIABLE SECURITY ATTRIBUTE	

This decision is in response to "Request to Reconstruct the File," filed on 10 April 2002. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 14 June 2000, applicant filed international application PCT/DE00/01908. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 December 2000.

On 08 January 2001, applicant filed a Demand for international preliminary examination, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired on 17 December 2001 (15 December 2001 was a Saturday).

On 10 April 2002, applicant submitted the instant petition accompanied by, *inter alia*, the U.S. Basic National Fee.

DISCUSSION

Applicant appears to seek treatment under 37 CFR 1.10(e) for papers claimed to have been deposited with DHL for delivery to USPTO, but never received at the Office.

A requirement of 37 CFR 1.10(e) is that the correspondence be deposited with "Express Mail Post Office to Addressee." This was not done.

Applicant states there was an interruption of USPS service under 37 CFR 1.6(e) on 12 December 2001. The Memo entitled "Termination of the Suspension of the 'Express Mail' Service of United States Postal Service for Mail Addressed to ZIP Codes 202xx through 205xx," dated 05 December 2001 and available on the USPTO website, states "On Thursday, November 29, 2001, the USPS indicated that this suspension of Express Mail Service has been terminated." Further, it is noted, that shipment of documents by a carrier other than USPS Express Mail was never an acceptable alternative to obtain treatment under 37 CFR 1.10. An alternative Express Mail address in the 22202 ZIP code was established.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
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Telephone: 703-305-0455
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07 FEB 2003

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WASHINGTON, D.C. 20231
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Law Offices of Karl Hormann
86 Sparks Street
Cambridge, MA 02138-2216

In re Application of	
PUTTKAMMER, Frank	
Application No.: 10/110,600	DECISION ON
PCT No.: PCT/DE00/01908	
Int. Filing Date: 14 June 2000	PETITION
Priority Date: 15 June 1999	
Attorney Docket No.: 010491-US	UNDER 37 CFR 1.137(a)
For: OPTICALLY VARIABLE SECURITY ATTRIBUTE	

This decision is in response to "Renewed Petition Under 37 CFR 1.181 and 1.137(b)," filed on 15 October 2002.

BACKGROUND

On 14 June 2000, applicant filed international application PCT/DE00/01908. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 December 2000.

On 08 January 2001, applicant filed a Demand for international preliminary examination, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired on 17 December 2001 (15 December 2001 was a Saturday).

On 10 April 2002, applicant submitted a petition to reconstruct accompanied by, *inter alia*, the U.S. Basic National Fee.

On 02 August 2002, the Office dismissed the petition without prejudice.

On 15 October 2002, applicant filed a renewed petition. It included a certificate of first class mailing dated 02 October 2002.

DISCUSSION

In the present petition, while captioning the petition as a petition under 37 CFR 1.137(b), applicant has argued that the abandonment was unavoidable, which is a petition under 37 CFR 1.137(a). Further, applicant provided the fee for a petition under 37 CFR 1.137(a). As such, the petition has been treated as a petition under 37 CFR 1.137(a).

A petition to revive an application for patent unavoidably abandoned under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, (2) the petition fee, (3) a satisfactory showing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition to 1.137(a) was unavoidable and (4) a terminal disclaimer if application was filed before June 8, 1995.

Items (1), (2) and (4) have been met. Applicants have supplied the basic national fee and the petition fee. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (3) has not been satisfied. The requirement of 37 CFR 1.10(e) that the correspondence be deposited with "Express Mail Post Office to Addressee" was never waived. Shipment of documents by a carrier other than USPS Express Mail was never an acceptable alternative to obtain treatment under 37 CFR 1.10. An alternative Express Mail address in the 22202 ZIP code was established. As such, the shipment of documents by a method other than Express Mail did not demonstrate the level of care of a "reasonably prudent person." See, e.g., MPEP 711.03(c). Thus, contrary to applicant's assertion, the abandonment of the instant application, though perhaps unintentional, was not unavoidable. Applicant need only have mailed the application by Express Mail.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice

The application remains **ABANDONED**.

Applicant may wish to consider filing a petition under 37 CFR 1.137(b) to revive an application abandoned through unintentional delay.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)."

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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PCT Legal Administration

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14 JUL 2006

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NEIFELD IP Law, PC
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In re Application of	:	
PUTTKAMMER, Frank	:	
Application No.: 10/110,600	:	DECISION
PCT No.: PCT/DE00/01908	:	
Int. Filing Date: 14 June 2000	:	ON PETITION UNDER
Priority Date: 15 June 1999	:	
Attorney Docket No.: 010491-US	:	37 CFR 1.137(b)
For: OPTICALLY VARIABLE SECURITY ATTRIBUTE	:	

This is a decision on applicant's "37 CFR 1.137(b) Petition to Revive Due to Unintentional Abandonment," filed in the United States Patent and Trademark Office on 28 March 2006.

BACKGROUND

On 14 June 2000, applicant filed international application PCT/DE00/01908. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 December 2000. On 08 January 2001, applicant filed a Demand for international preliminary examination, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired on 17 December 2001 (15 December 2001 was a Saturday).

On 10 April 2002, applicant submitted a petition to reconstruct accompanied by, *inter alia*, the U.S. Basic National Fee.

On 02 August 2002, the Office dismissed the petition without prejudice.

On 15 October 2002, applicant filed a renewed petition. It included a certificate of first class mailing dated 02 October 2002.

On 07 February 2003, the Office mailed Decision On Petition Under 37 CFR 1.137(a), dismissing applicant's petition without prejudice.

On 28 March 2006, applicant filed a petition to revive under 37 CFR 1.137(b).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to

June 8, 1995). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (2), (3) and (4) have been satisfied. The basic national fee and the petition fee have been supplied. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (1) has not been satisfied. While the required statement has been provided, additional information explaining the delay is required. It is not clear from applicant's petition that the entire delay subsequent to abandonment was unintentional. Present counsel was not representing applicant for the entire duration of the abandonment. Specifically, Karl Hormann was counsel in February 2003 and was mailed a decision on petition informing him that the application was abandoned and that he might want to consider filing a petition under 37 CFR 1.137(b). That decision set a two month period for reply. An explanation of Mr. Hormann's delay in reviving this application from February 2003 until at least November 2005, when applicant's current petition begins its explanation, is required.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
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26 OCT 2006

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4813-B Eisenhower Avenue
Alexandria, VA 22304

In re Application of	:	
PUTTKAMMER, Frank	:	
Application No.: 10/110,600	:	DECISION
PCT No.: PCT/DE00/01908	:	
Int. Filing Date: 14 June 2000	:	ON PETITION UNDER
Priority Date: 15 June 1999	:	
Attorney Docket No.: 010491-US	:	37 CFR 1.137(b)
For: OPTICALLY VARIABLE SECURITY ATTRIBUTE	:	

This is a decision on applicant's "37 CFR 1.137(b) Renewed Petition to Revive Due to Unintentional Abandonment," filed in the United States Patent and Trademark Office on 08 August 2006.

BACKGROUND

On 14 July 2006, the Office mailed Decision On Petition Under 37 CFR 1.137(b), dismissing applicant's petition without prejudice.

On 08 August 2006, applicant submitted the instant renewed petition.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (2), (3) and (4) have been satisfied. The basic national fee and the petition fee have been supplied. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (1) has now been satisfied. While the required statement has been provided, additional information explaining the delay is required. It was not clear from applicant's petition that the entire delay subsequent to abandonment was unintentional. Present counsel was not representing applicant for the entire duration of the abandonment. Karl Hormann has now submitted a declaration explaining that he did not file a response to the February 2003 decision from the Office as he has no record of having received it.

The fees for late furnishing of the oath or declaration and for late furnishing of the English translation will be charged to deposit account no. 50-2106, as authorized.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 10 April 2002.

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APR 07 2009

OFFICE OF PETITIONS

In re Application of :
Muhonen et al. :
Application No. 10/110,661 : ON APPLICATION FOR
Filed: November 25, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. 088245-0720 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed December 23, 2008. Applicants submit that the patent term adjustment should be nine hundred fifty-eight (958) days instead of the three hundred seventeen (317) days calculated by the United States Patent and Trademark Office. Referring to Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request this correction on the basis that the Office will take in excess of three years to issue this patent[1]. Applicants argue that pursuant to the interpretation in Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day," and as such the Office will calculate the incorrect patent term adjustment.

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, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

[1] Applicants assert this calculation using a projected patent grant date of April 14, 2009.

(This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment 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 pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> 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 –
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on October 8, 2007.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

JUN 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,532,894	:	DECISION ON REQUEST
Muhonen et al.	:	FOR
Issue Date: May 12, 2009	:	RECONSIDERATION OF
Application No. 10/110,661	:	PATENT TERM ADJUSTMENT
Filed: November 25, 2002	:	and
Atty Docket No. 088245-0720	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 6, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand eighty-one (1081) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand eighty (1080) days.

The B delay is 905 days, not 906 days. As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of B delay, the over three year period began on April 16, 2005[1], and ended on October 7, 2007, *the day before* the RCE was filed, and is 905 (not 906) days. *See* 35 U.S.C. § 154(b)(1)(B)(i). Patentee's calculation appears to include a correct calculation of 94 (41 + 53) overlapping days. In addition, patentee increases the applicant delay to 78 days, including a previously omitted period of reduction of 60 days for applicant delay in

[1] The national stage commencement date of this application is (Monday), April 15, 2002.

filing a response on November 25, 2002 to the Notification of Missing Requirements mailed June 26, 2002. Accordingly, the patent term adjustment is increased by 811 (905 - 94) and decreased by 60 to a revised patent term adjustment of 1080 days.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand eighty **(1080)** 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 : 7,532,894 B1

DATED : **May 12, 2009** **DRAFT**

INVENTOR(S) : Muhonen 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 676 days

Delete the phrase "by 676 days" and insert – by 1080 days--

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

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DEC 01 2006

OFFICE OF PETITIONS

In re Application of
Koyata et al.
Application No. 10/110,672
Filed: April 16, 2002
Attorney Docket No.: 09812.0513-00000

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to an Restriction Requirement mailed June 2, 2005. The Office Action set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a).

The petition to withdraw the holding of abandonment and the petition revive under 37 CFR 1.137(b) is **DISMISSED AS MOOT** in light of the examiner interview summary vacating the restriction requirement. The primary examiner indicates the application is pending and no response is due from the applicant.

This application is being forwarded to Technology Center 3600 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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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203-1808

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of :
Koji Ukai et al :
Application No. 10/110,679 : ON PETITION
Filed: April 16, 2002 :
Attorney Docket No. 423-64

This is a decision on the petition filed, March 24, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 10, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the 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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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DEC 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
UKAI, et al.	:	
Application No. 10/110,679	:	DECISION GRANTING PETITION
Filed: April 16, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 423-64	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 6, 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 16, 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 1626 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
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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MARSHALL, GERSTEIN & BORUN, LLP
6300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6357

In re Application of Miyanaga et al. Application No.: 10/110,701 PCT No.: PCT/JP00/07018 Int. Filing: 10 October 2000 Priority Date: 19 October 1999 Attorney Docket No.: 19036/38322 For: SHANK ATTACHING STRUCTURE AND CUTTER	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "Petition to Withdraw Holding of Abandonment (37 CFR 1.181(a))" filed in the United States Patent and Trademark Office (USPTO) on 09 October 2003. No petition fee is required.

BACKGROUND

On 12 April 2002, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 12 August 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), and the surcharge for filing the declaration after the 30 month period was required.

On 26 August 2002, applicant filed a declaration executed by the inventor, along with a $65 check for the surcharge for filing the declaration after the 30 month period.

On 29 September 2003, a Notification of Abandonment was mailed to applicant, indicating that applicant had failed to response to the Notification of Missing Requirements within the time period set therein.

On 09 October 2003, in response to the Notification of Abandonment, applicant filed a copy of the declaration and an itemized USPTO date-stamped postcard indicating that an executed declaration was filed on 26 August 2002.

DISCUSSION

The original declaration filed on 26 August 2002 is not located in the application file. However, a review of the finance records for 10/110,701 indicates that the $65 surcharge for filing the declaration after the thirty month period was paid on 26 August 2002.

As stated in section 503 of the Manual of Patent Examining Procedure (8th Ed., August 2001)(MPEP):

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

A review of the USPTO date-stamped, itemized postcard receipt indicates that the combined declaration and power of attorney was deposited with the USPTO on 26 August 2002.

The evidence submitted is sufficient to establish that a declaration this application was received in the USPTO on 26 August 2002. The communication filed 09 October 2003 includes a copy of the executed declaration. Accordingly, it is appropriate to accept the copy of the declaration as a replacement for the missing original declaration with a deposit date of 26 August 2002. The evidence submitted by applicant, the postcard receipt date stamped by the USPTO, is sufficient to overcome the *prima facie* evidence of the application file itself.

A review of the declaration reveals that the declaration identifies the inventor, and states the citizenship and mailing address of the inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

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

The copy of the declaration originally submitted on 26 August 2002 and resubmitted on 09 October 2003 is acceptable and meets the requirements of 37 CFR 1.497.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371 date is **26 August 2002.**

/Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

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IRVINE CA 92614

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JAN 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Yoshihiro Tokudome et al :
Application No. 10/110,712 : ON PETITION
Filed: April 11, 2002 :
Attorney Docket No. TOYAM94.001APC :

This is a decision on the petition, filed December 29, 2005 and supplementd on January 3, 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 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) 272-3208.

The examiner of Technology Center AU 3763 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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JAN - 4 2005

WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

In re Application of	:
Norman Barras et al	:
Serial No : 10/110,714	: PETITION DECISION
Filed : May 14, 2002	:
Attorney Docket No: 4040.000400	:

This is in response to the petition under 37 CFR 1.181, filed August 27, 2004, requesting withdrawal of abandonment based on non-receipt of an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that a Change of Correspondence Address was submitted on disk to the Office on November 11, 2002, changing the address to that shown above. For unknown reasons this change failed to be effected for the above identified application. Thus the next Office action was mailed to an incorrect address. Applicants state that the Office action mailed December 22, 2003, was never received and provide copies of docket reports as verification thereof. In view of the above evidence the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

Applicant's petition under 37 CFR 1.181, is **GRANTED .**

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

Should there be any questions regarding 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 transmission at 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

18 DEC 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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KEIL & WEINKAUF
1101 Connecticut Avenue NW
Washington, DC 20036

In re Application of: BOD, Peter, et al.	
U.S. Application No.: 10/110,724	
PCT No.: PCT/HU99/00071	COMMUNICATION
International Filing Date: 22 October 1999	REGARDING SUBMISSION
Priority Date: None	UNDER 37 CFR 1.42
Attorney's Docket No.: 972472	
For: PROCESS FOR PREPARING A SUBSTITUTED ALLYLAMINE DERIVATIVE AND THE SALTS THEREOF	

This communication is issued in response to applicant's submission on 15 July 2002 of a declaration executed on behalf of the deceased inventor, which has been treated as a submission under 37 CFR 1.42.

BACKGROUND

On 22 October 1999, applicant filed international application PCT/HU99/00071 which designated the United States. On 26 April 2001, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 22 December 2000, applicants filed a Demand for preliminary examination. Based on the timely filing of this Demand, the deadline for payment of the basic national fee extended to thirty months from the international filing date, i.e., 22 April 2002.

On 15 April 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 27 June 2002, the United States Designated/Elected Office ("DO/EO/US") mailed a Notification Of Missing Requirements indicating that an executed oath or declaration in compliance with 37 CFR 1.497 and the $130 surcharge for filing this declaration later than thirty months after the international filing date were required.

On 15 July 2002, applicant filed a "Response To Notification Of Missing Requirements" that included payment of the required surcharge and a declaration executed by the eight surviving inventors and on behalf of deceased inventor Ferenc TRISCHLER by two persons identified as heirs to the deceased inventor (Ferenc TRISCHLER, Jr. and Tamas TRISCHLER). It is this declaration which is considered herein as a submission under 37 CFR 1.42.

DISCUSSION

37 CFR 1.42, states, in part:

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

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

37 CFR 1.497(b)(2) requires that citizenship, mailing address, and residence information be provided for **both** the deceased inventor and the legal representative. The regulation expressly requires the inclusion of this information for the legal representative. As for the deceased inventor, such information is required because the legal representative must declare to all the facts which the inventor would have been required to state, and citizenship, residence and mailing address are among the facts which the inventor would have been required to set forth pursuant to 37 CFR 1.497(a) and 37 CFR 1.63.

Here, as noted above, the declaration submitted on 15 July 2002 was executed by Ferenc TRISCHLER, Jr. and Tamas TRISCHLER as "heirs" of the deceased inventor Ferenc TRISCHLER. However, the declaration does not state that Ferenc TRISCHLER, Jr. and Tamas TRISCHLER are the sole heirs of the deceased inventor, nor have applicants submitted supplemental materials showing that the listed heirs are the sole heirs of the deceased inventor. Accordingly, at this time the declaration cannot be accepted as having been signed by all the heirs to the deceased inventor.

In addition, the declaration does not comply with revised 37 CFR 1.497(b)(2), discussed above, in that it does not include citizenship, mailing address, and residence information for the deceased inventor (such information is provided for the heirs, as also required).

Because it is not apparent whether the declaration filed on 15 July 2002 has been executed by all the heirs of the deceased inventor, and because it does not provide all the information required by 37 CFR 1.497(b)(2), the declaration cannot be accepted under 37 CFR 1.42.

CONCLUSION

The 15 July 2002 submission under 37 CFR 1.42 is **REFUSED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mailing date of this communication to submit a proper response under 37 CFR 1.42 and 37 CFR 1.497. Failure to provide a proper and timely response will result in abandonment.

A proper response must include an acceptable declaration properly executed under 37 CFR 1.42, that is, a declaration which on its face or through supplemental materials indicates that the executing person(s) are all the heirs of the deceased inventor. In addition, the declaration must include all required information, including the citizenship, post office address, and residence information for the deceased inventor and the heirs, as discussed above.

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

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

31 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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KEIL & WEINKAUF
1101 Connecticut Avenue NW
Washington, DC 20036

In re Application of: BOD, Peter, et al.	
U.S. Application No.: 10/110,724	
PCT No.: PCT/HU99/00071	COMMUNICATION
International Filing Date: 22 October 1999	REGARDING RENEWED
Priority Date: None	SUBMISSION UNDER
Attorney's Docket No.: 972472	37 CFR 1.42
For: PROCESS FOR PREPARING A SUBSTITUTED ALLYLAMINE DERIVATIVE AND THE SALTS THEREOF	

In a decision mailed 18 December 2002, this Office refused the declaration filed by applicants on 15 July 2002 for failure to satisfy 37 CFR 1.42 and 1.497. Specifically, the declaration submitted on 15 June 2002, executed by the eight surviving inventors and on behalf of deceased inventor Ferenc TRISCHLER by two persons identified as heirs to the deceased inventor (Ferenc TRISCHLER, Jr. and Tamas TRISCHLER), did not state that the signing heirs represented all the heirs of the deceased inventor, and it did not comply with 37 CFR 1.497(b)(2) in that it did not include citizenship, mailing address, and residence information for the deceased inventor, in addition to the heirs.

On 21 February 2003, applicant filed the "Supplement To Renewed Petition Under 37 CFR 1.42" considered herein.[1] This submission includes: (1) a revised declaration naming the surviving inventors and executed by Ferenc TRISCHLER, Jr, Gabriel Maria TRISCHLER, and Tamas Robert TRISCHLER on behalf of deceased inventor Ferenc TRISCHLER; and (2) a separate declaration executed by the three heirs stating they are the sole heirs of the deceased inventor . The revised declaration sets forth the citizenship, mailing address, and residence information for both the deceased inventor and the heirs, as required.

The submission of the declaration executed by heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect, applicants are required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

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[1] The present submission refers to a separate "Renewed Petition." Such "Renewed Petition" is not present in the application file, but the present submission is sufficient on its own to support this decision.

Based on the above, the revised declaration filed 23 February 2003 is **ACCEPTED** under 37 CFR 1.42 and 37 CFR 1.497.

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accord with this decision. The 35 U.S.C. 371 date is 23 February 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
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09 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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KEIL & WEINKAUF
1101 Connecticut Avenue NW
Washington, DC 20036

In re Application of: BOD, Peter, et al.	:	
U.S. Application No.: 10/110,724	:	
PCT No.: PCT/HU99/00071	:	SUPPLEMENT TO
International Filing Date: 22 October 1999	:	COMMUNICATION
Priority Date: None	:	REGARDING RENEWED
Attorney's Docket No.: 972472	:	SUBMISSION UNDER
For: PROCESS FOR PREPARING A SUBSTITUTED ALLYLAMINE DERIVATIVE AND THE SALTS THEREOF	:	37 CFR 1.42 MAILED 31 MARCH 2003

The communication mailed 31 March 2003 incorrectly stated that the 35 U.S.C. 371 date for this application is 23 February 2003. The correct 35 U.S.C. 371 date is 21 February 2003, the date on which applicants filed the "Supplement To Renewed Petition Under 37 CFR 1.42" and the revised declaration included therewith.

The 31 March 2003 decision is hereby **CORRECTED** to the extent that it misidentifies the 35 U.S.C. 371 date.

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accord with this decision. The 35 U.S.C. 371 date is **21 February 2003.**

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 4/9/05 Paper No.: _____

TO : Supervisor, Art Unit 2856

SUBJECT : Certificate of Correction Request in Patent No.: 10/110,783 6829939 B2

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: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Supervisor 2856 Art Unit

24 JUL 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Bacon & Thomas, PLLC
625 Slaters Lane - 4th Floor
Alexandria, VA 22314-1176

In re Application of	:	
YOON, Gil Lim	:	
Application No.: 10/110,790	:	DECISION ON
PCT Application No.: PCT/KR01/01218	:	
International Filing Date: 16 July 2001	:	PETITION
Priority Date: 31 July 2000	:	
Attorney Docket No.: YOON3007/JEK	:	UNDER 37 CFR 1.137(b)
For: RENTAL SYSTEM OF SOFTWARE THROUGH THE INTERNET	:	

Applicant's "Petition to Revive Under 37 C.F.R. 1.137(b)," filed in the United States Patent and Trademark Office on 19 April 2002 is **GRANTED**.

BACKGROUND

On 16 July 2001, applicant filed an international application number PCT/KR01/01218, which claimed a priority date of 16 July 2001. A copy of the application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 February 2002. The deadline for entry into the United States National Stage was twenty months from the priority date, that is 01 April 2002 (31 March 2002 was a Sunday).

On 19 April 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee, a declaration and a petition to revive.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant's statement that "the entire delay in filing the necessary documents for entry into the U.S. national stage of the application up to the date of filing of this petition was unintentional," is construed to mean that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was

unintentional, as required by 37 CFR 1.137(b)(3). If this is not a correct interpretation, applicant must notify the Office immediately. The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application has an international filing date of 16 July 2001 under 35 U.S.C. §363 and a date of 19 April 2002 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

for Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

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999 PEACHTREE STREET
ATLANTA GA 30309-3915

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OFFICE OF PETITIONS

In re Application of :
C. Richter King et al. :
Application No.07/110,791 : DECISION ON PETITION
Filed: October 21, 1987 :
Attorney Docket No. 50227 :

This is a decision on the petition, filed May 3, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application. The delay in answering this petition is regretted.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the decision by the Board of Appeals and Interferences (Board) mailed November 21, 2001. A notice of abandonment was mailed March 21, 2006.

Petitioner asserts that the Notice of Abandonment was premature as no reply was required from applicant in response to the Board's decision dated November 21, 2001. 37 CFR 1.664 stated that after termination of an interference, the examiner will promptly take such action in any application previously involved in the interference as may be necessary.. See MPEP 2363. Accordingly, after the Board's judgment mailed November 21, 2001, there was no response required from applicant, the examiner should have taken the case up for appropriate action.

A review of the file shows that applicant's claims 60 and 61 were withdrawn from the interference count 2 as amended (see the August 21, 2001 order attached as exhibit C to the instant petition) and are thus allowed as indicated in the notice of suspended prosecution mailed August 20, 1996.

In view of the above, the Notice of Abandonment is hereby withdrawn as premature.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

This application is being referred to Technology Center Art Unit 1643 for further processing in accordance with the above decision.

David Bucci
Petitions Examiner
Office of Petitions

20 SEP 2004

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CHRISTIE, PARKER & HALE, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

In re Application of
WEISS, Tilman *et al*
U.S. Application No.: 10/110,805
PCT No.: PCT/DE00/03727
Int. Filing Date: 10 October 2000
Priority Date: 15 October 1999
Attorney Docket No.: 48188/DBP/M521
For: SEMICONDUCTOR COMPONENT, ELECTRONIC COMPONENT, SENSOR SYSTEM . . .

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT, OR TO REVIVE UNDER 37 CFR 1.137(b)

This decision is in response to applicants' "Petition for Reinstatement, or in the Alternative, to Revive Under 37 CFR § 1.137(b)" filed 08 September 2004.

BACKGROUND

On 28 June 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. A two-month time limit in which to respond was set with extensions of time available pursuant to 37 CFR 1.136(a).

On 08 September 2004, applicants filed the instant petition which was accompanied by, *inter alia*, an executed declaration; a "Declaration of Deborah J. Prout;" a "Declaration of Daniel G. Ferris;" and a copy of a Patent Filing Receipt Audit Sheet.

DISCUSSION

A review of the above-captioned application shows that a timely response to the Form PCT/DO/EO/905 mailed 28 June 2002 was not provided. The fact that the above-captioned application was deemed "lost" for a period and later "found" does not affect applicant's requirement to timely respond to the Form PCT/DO/EO/905.

Accordingly, the above-captioned application is hereby **ABANDONED**.

Office Action Not Received

Petitioners claim that the Form PCT/DO/EO/905 mailed 28 June 2002 was never received and request a "reinstatement." This is treated as a petition to withdraw the

holding of abandonment based on a failure to receive an Office action. *See* MPEP § 711.03(c) (pg. 700-162) (Rev.2 May 2004).

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement.

In the petition, counsel states that "applicant never received a copy of that document" (the Form PCT/DO/EO/905). This statement satisfies item (1). Petitioners included declarations by Deborah J. Prout and Daniel G. Harris who attest to a search of the file and docket records satisfying item (2). Petitioners also submitted a copy of a Patent Filing Receipt Audit Sheet containing information on Docket Number 48188 only. A review of this record does not indicate that the Notification of Missing Requirements mailed 28 June 2002 was received. However, this docket record does not satisfy the requirement outlined in section 711.03(c) of the MPEP which states, in part:

> 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.

A single document containing only docket information on the U.S. application in question shows no other corroborating information to add weight and credibility to the information contained therein and can be too easily manipulated. In order to satisfy the docket record requirement to prove nonreceipt of an Office communication, applicants must provide a copy of counsel's docket records for the date upon which a response to the Notification of Missing Requirements was due (*i.e.*, 28 August 2002). An example of such a record would be a daily "tickler" report or a daily log showing all applications for which a response is due on that date. The docket report showing only the subject application does not satisfy this requirement. Therefore, item (3) is not yet satisfied.

CONCLUSION

For this reason, applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

Petition to Revive Under 37 CFR 1.137(b)

In the papers filed 08 September 2004, applicants request that a petition to revive under 37 CFR 1.137(b) be processed in the alternative, without a petition fee. This is not possible. Nevertheless, applicants authorized the Office to charge any fees which may be required to Deposit Account No. 03-1728.

A petition to revive an application on the grounds of unintentional delay pursuant to 37 CFR 1.137(b) must be accompanied by: (1) a proper reply; (2) the requisite petition fee; (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any required terminal disclaimer.

An executed declaration in compliance with 37 CFR 1.497(a) and (b) was filed with the instant petition satisfying item (1). The petition fee of $1,330.00 has been charged to Deposit Account No. 03-1728 as authorized satisfying item (2). A terminal disclaimer is not required. However, applicants have not provided the requisite statement required by 37 CFR 1.137(b)(3), or made any statement that may be construed as satisfying item (3). This statement is necessary for a grantable petition under 37 CFR 1.137(b).

CONCLUSION

Accordingly, applicants' petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice. The subject application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-645; (571) 272-3302 (after 30 September 2004)

16 AUG 2005

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CHRISTIE, PARKER & HALE, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

In re Application of :
WEISS, Tilman *et al* :
U.S. Application No.: 10/110,805 :
PCT No.: PCT/DE00/03727 : **DECISION**
Int. Filing Date: 10 October 2000 :
Priority Date: 15 October 1999 :
Attorney Docket No.: 48188/DBP/M521 :
For: SEMICONDUCTOR COMPONENT, :
ELECTRONIC COMPONENT, SENSOR :
SYSTEM . . . :

This decision is in response to applicants' "Renewed Petition for Reinstatement, . . . " filed 22 November 2004.

BACKGROUND

On 20 September 2004, a decision dismissing applicants' petition to withdraw the holding of abandonment for failure to receive an office action was mailed. Applicants' petition to revive, in the alternative, was similarly dismissed.

On 22 November 2004, applicants' submitted the renewed petition which was accompanied by, *inter alia*, a copy of a "Weekly Prosecution Calendar: 08/24/2002 to 09/08/2002" and a "Second Declaration of Daniel G. Ferris."

DISCUSSION

In the papers filed 22 November 2004, applicants request a reconsideration of the petition to withdraw the holding of abandonment, or in the alternative, renewed petition to revive under 37 CFR 1.137(b). Applicants also requested a refund of the petition to revive fee, if the petition to withdraw the holding of abandonment is granted.

Renewed Petition to Withdraw Holding of Abandonment

As previously indicated, the showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and

docketed must be attached to and referenced in practitioners' statement. *See* MPEP § 711.03(c).

Applicants failed to submit the evidence required to satisfy item (3) in the initial petition and were requested to provide a copy of counsel's docket records for the period when the response to the Notification of Missing Requirements was due (*i.e.*, 28 August 2002).

In the renewed petition, applicants submitted another declaration by Daniel Ferris, the Supervisor of the Docketing Department of Christie, Parker & Hale, LLP, who claims that after reviewing the weekly log entries "no docket entry was ever entered for a missing part which would have a due date of August 28, 2002." Petitioners also submitted a copy of the "Weekly Prosecution Calendar: 08/24/2002 to 09/08/2002" showing all USPTO mail received for the date in question as requested.

A review of this record shows that there is no indication that the Notification of Missing Requirements mailed 28 June 2002 was received. This evidence is sufficient to satisfy item (3). Accordingly, applicants have now met the requirements required to establish nonreceipt of the Office action.

CONCLUSION

In view of the above, applicants' renewed petition to withdraw the holding of abandonment is **GRANTED**. The application is no longer abandoned.

A review of the financial records for the above-captioned application show that the petition to revive fee has not yet been charged despite the statement in the prior decision. Accordingly, applicants' request for a refund is moot.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 10 October 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 08 September 2004. This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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Washington, D.C. 20231
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Paper 7

ROBERT W. BECKER & ASSOCIATES
707 HIGHWAY 333
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TIJERAS NM 87059-7507

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JAN 11 2008

OFFICE OF PETITIONS

In re Application of
Jost Wadephul
Application No. 10/110,806
Filed: April 15, 2002
Attorney Docket No. 45/367 LI/SCH

ON PETITION

This is a decision in response to the status request filed January 3, 2008, and the petition filed September 17, 2003 under 37 CFR 1.181(b) to withdraw the holding of abandonment, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before June 24, 2003 as was required by the Notice of Allowance mailed March 24, 2003. This application therefore became abandoned on June 25, 2003. Accordingly, a Notice of Abandonment was mailed July 24, 2003.

The file record discloses that the Notice of Allowance was mailed to the address of record, the same address to which the Notice of Abandonment was mailed and received. However, petitioner contends that the Notice of Allowance was not received. In support, petitioner indicates that a search of the file jacket revealed that the Notice was not received and submits copies of pages from the docketing system and the file jacket, wherein receipt of the Notice would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none has been charged.

This application is being forwarded to the Technology Center 3723 for a remailing of the Notice of Allowance and Notice of Allowability.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Mailed: MAR 18 2004

spg
Paper Number 11

In re application of :
Hartert Rudiger et al. : DECISION ON
Serial No. 10/110,834 : PETITION
Filed: December 27, 2002 :
For: PENETRATION RESISTANT FABRIC :

This is a response to the REQUEST TO WITHDRAW HOLDING OF ABANDONMENT, filed October 2, 2003. The request asks that the abandonment, as set forth in the Notice of Abandonment of October 1, 2003, be withdrawn since the applicant did timely file a response with the proper extension of time on September 29, 2003.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the USPTO application file reveals that applicant's response, the AMENDMENT and PETITION FOR EXTENSION OF TIME, was properly filed on September 29, 2003 in view of the fact that the originally filed papers having a Patent and Trademark Office date stamp of September 29, 2003 thereon have been located in the USPTO application file. Accordingly, any holding of abandonment is hereby vacated, and the application has been returned to pending status.

The application shall be forwarded to the examiner for processing and consideration of the papers filed September 29, 2003.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Shoemaker and Mattare
Suite 1203 Crystal Plaza Building 1
2001 Jefferson Davis Highway
Arlington VA 22202-0286

UNITED STATES PATENT AND TRADEMARK OFFICE

PET. DEC.

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ALEXANDRIA, VA 22313-1450
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MAR 31 2004

VP
PAPER NO. ___

In re Application of
Lev Beirakh et al.
Serial Number: 10/110,855
Filed: August 30, 2002
For: MODIFIER FOR DEVULCANIZATION OF CURED ELASTOMERS, MAINLY VULCANIZED RUBBER AND METHOD FOR DEVULCANIZATION BY MEANS OF THIS MODIFIER

PETITION UNDER M.P.E.P.708.02 IV and V

This is in response to the petition filed September 25, 2003, requesting that the above-identified application be granted Special Status under Sections 708.02 IV and V of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Sections 708.02 IV and V of the MPEP is granted because criteria under 37 CFR 1.102(c) have been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
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CHIEF PATENT COUNSEL
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MEMPHIS TN 38116

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OFFICE OF PETITIONS

In re Application of
Chris Carson :
Application No. 10/110,859 : ON PETITION
Filed: August 22, 2002 :
Attorney Docket Number: 10557/272927 :

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 24, 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 25, 2004. Accordingly, a Notice of Abandonment was mailed June 28, 2004.

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

Additionally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

---

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

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

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

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

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

This 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

cc:
MICHAEL A. BERTELSON
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

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JAN - 5 2005

ALIX YALE & RISTAS LLP
750 MAIN STREET
SUITE 1400
HARTFORD CT 06103

In re Application of	:
Alexandros Makriyannis	:
Serial No.: 10/110,862	: PETITION DECISION
Filed: October 18, 2000	:
Attorney Docket No.: UCONAP/159	:

This is a response to the petitions under 37 CFR 1.59(b), filed September 24, 2004, to expunge information from the above identified application.

Petitioner requests that documents submitted June 29, 2004, as part of Information Disclosure Statement be expunged from the file as having been filed inadvertently. 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.

A review of the file shows applicants' statements to be correct. The last four pages of the IDS are headed "THIS PAGE NOT PART OF IDS – INTERNAL USE ONLY". Inasmuch as all papers in this file have been converted to an imaged document file, the paper is not physically returnable. However, access to the document has been closed and it will not be accessible by the public.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, 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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FEB - 7 2006

ALIX YALE & RISTAS, LLP
750 MAIN STREET
SUITE 1400
HARTFORD, CT 06103

In re Application of	:
Alexandros Makriyannis et al	:
Serial No.: 10/110,862	: PETITION DECISION
Filed: October 21, 2002	:
Attorney Docket No.: UCONAP/159/PC/US	:

This is in response to the petition under 37 CFR 1.144, filed December 19, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 and accepted on October 21, 2002, and contained, as filed, claims 1-5 which were replaced with claims 6-10. In a first Office action a first examiner allowed the claims as presented by mailing a Notice of Allowance and Issue Fee Due and a Notice of allowability to applicants on September 26, 2003, setting a three month statutory period for payment of the Issue Fee.

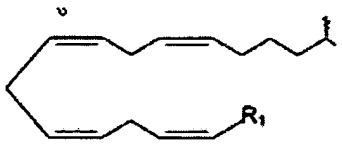
In lieu of paying the Issue Fee applicants filed RCE papers and an IDS on December 23, 2003. A second IDS was filed on June 29, 2004. An amendment was submitted on September 17, 2004, in which claims 1-5 were amended and claims 6-10 were added. On September 27, 2004, the same examiner allowed the application again by mailing of a Notice of Allowance and Issue Fee due and a Notice of Allowability, setting a three month statutory period for payment of the Issue Fee. The Notice canceled claims 1-5 and allowed claims 6-10, renumbered as 1-5. An amendment under 37 CFR 1.312 was filed October 26, 2004, correcting an error in the specification (and is presumed to have been entered).

In lieu of paying the Issue Fee applicants again filed RCE papers on December 23, 2004, accompanied by an IDS. An amendment was filed on December 27, 2004, which extended applicants' priority claim to an earlier date and made minor amendments to claims 1 and 3-5 (using the numbers of the renumbered claims) and adding claims 6-11. **It appears that this amendment is improper according to 37 CFR 1.121.** It is improper as active claims 1-5 appear in the amendment, however claims 1-5 were previously canceled and, if they are to be reinstated, they must be given new claim numbers.

On July 15, 2005, a new examiner issued a Lack of Unity requirement dividing the claims into four groups, as follows:

Group I, claims 1-3 and 6-8, drawn to compounds where R_3 is not a ring structure;
Group II, claims 1-3 and 6, drawn to compounds where R_3 is an aliphatic ring structure which may contain up to three heteroatoms;
Group III, claims 1-3 and 6, drawn to compounds where R_3 is an aromatic ring structure which may contain up to three heteroatoms;
Group IV, claims 4-5 and 9-11, drawn to a method of stimulating CB1 receptors using the compounds of the above three Groups.

The examiner reasoned that in the first three Groups, the only common structure which would support the concept of a special technical feature which defines over the art would be the anandamide structure, shown here:



However the examiner found such structure did not define over the art as it was known and thus did not meet the criteria set forth for Markush groupings under PCT Rule 13.2. Therefore the R_3 group was needed to make a contribution over the art. By reasoning that the blocking of CB1 receptors was the special technical feature of Group IV, it was distinguished from Groups I-III.

Applicants replied on August 19, 2005, electing Group I, with traverse, on the basis that all claims were found to have Unity by a prior examiner and had been allowed in essentially the same form as now presented and that the examiner has not correctly defined the special technical feature on which Unity is based and that there is not a serious burden to examine all of the claims..

The examiner mailed a new Office action to applicants on October 20, 2005, maintaining the Lack of Unity on the same basis as set forth in the previous Office action and making the requirement Final. Claims 1-2 were rejected under 35 U.S.C. 112, second paragraph, as indefinite and claim 6 was rejected under 35 U.S.C. 102(b) as anticipated by Berglund et al (of record).

Applicants filed this petition on December 19, 2005, requesting withdrawal of the Lack of Unity requirement.

DISCUSSION

Applicants argue in their petition that PCT Rule 13 permits inclusion in an application claims to a product and a process for using that product and that claims so grouped have Unity of Invention. Applicants also argue that the examiner has misapplied the guidelines for PCT Rule

13.1 and 13.2 for Markush type claims. The applicable guidelines state that a special technical feature is shown by a groups of compounds all having (1) a common property or utility and (2a) a significant structural element which defines over the prior art, or (2b) where the above is not present, a significant portion of a structure which is common to all compounds and which belongs to a recognized class of compounds. The latter does not require that the structure define over the prior art, but that the structure be a recognized basic chemical structure (e.g. – cholesterol). Here it appears that the structure of Formula I of claim 1 meets the criteria of part (2b) as well as part (1) which thus establishes Unity of Invention among the compounds. Since the compounds are useful in the methods claimed, Unity exists between the compound claims and method claims. It is recognized that a rejection of at least one compound falling within the claimed Markush group has been rejected over prior art of record. Such may be indicative of Lack of Unity in some instances. Here, however, it is appropriate to maintain Unity among the claims now present. It is also noted that "search burden" or lack thereof is not a consideration in establishing or determining Lack of Unity.

DECISION

The petition is **GRANTED.** All claims will be examined in the next Office action.

Applicants remain under obligation to reply to the Office action mailed October 20, 2005, within the time period set therein, or as extended under 37 CFR 1.136(a). However the response should address the rejections of record as if they applied to all claims present.

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

Geroge C. Elliott
Director, Technology Center 1600

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

Paper No. 8

In re Application of
WOBBEN, ALOYS
Application No.: 10/110,864
Filed: August 21, 2002

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 7, 2003 to make special under 37 CFR 1.102(c).

Since the requirements of 37 CFR 1.102(c) and MPEP 708.02, VI have been met, the petition is granted.

The application is being forwarded to the examiner for an action on the merits.

Linda J. Sholl
Special Program Examiner
Technology Center 3700
Phone: (703) 308-1288

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701 FIFTH AVENUE
SUITE 6300
SEATTLE WA 98104-7092

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OFFICE OF PETITIONS

In re Application of :
Aloys Wobben :
Application No. 10/110,864 : ON PETITION
Filed: August 21, 2002 :
Attorney Docket No. 970054.415USPC :

This is a decision on the petition, filed March 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3745 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).

24 JUL 2002

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WASHINGTON, D.C. 20231
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#2

Sumit Roy
Vækerøveien 106
N-0383 Oslo
Norway

In re Application of
ROY, Sumit
Application No.: 10/110,900
PCT Application No.: PCT/NO00/00337
International Filing Date: 16 October 2000
Priority Date: 16 October 1999
Attorney Docket No.: None
For: LOW-PROFILE, NON-STENTED PROSTHESIS FOR TRANSLUMINAL IMPLANTATION

DECISION ON

PETITION

UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 23 May 2002 is **GRANTED**.

BACKGROUND

On 16 October 2000, applicant filed international application number PCT/NO00/00337, which claimed a priority date of 16 October 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau on 26 April 2001. On 14 May 2001, a demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 16 April 2001.

On 15 April 2002, applicant faxed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, a declaration. The papers were assigned application number 10/110,900.

On 23 April 2002, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, a declaration. These papers were assigned application number 10/111,202.

On 23 May 2002, applicant filed a petition to revive accompanied by copies of the transmittal letter for entry into the national stage and the declaration. These papers were assigned application number 10/130,767.

DISCUSSION

MULTIPLE SERIAL NUMBERS

As is evident from the above recited facts, three transmittal letters for entry into the national stage were submitted for international application number PCT/NO00/00337 (United States application numbers 10/110,900, 10/111,202 and 10/130,767). The end result for an international application designating the United States of America is a single U.S. national stage application.

Application Numbers 10/111,202 and 10/130,767 have been cancelled. All the papers from 10/111,202 and 10/130,767 have been transferred to the file of application number 10/110,900.

The $616 charged each for 10/110,900 and 10/130,767 will be refunded to applicant's charge card account. The money charged to 10/111,202 will be transferred to 10/110,900.

PETITION TO REVIVE

On 17 April 2002, PCT/NO00/00337 went abandoned for failure to timely enter the national stage. The basic national fee may not be submitted by facsimile. 37 CFR 1.6(d)(3) and 37 CFR 1.8(a)(2)(i)(F).

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant's statement that "the entire 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," satisfies the requirements of 37 CFR 1.137(b)(3). Applicant has paid both the petition fee and the basic national fee. A terminal disclaimer is not required as application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further national stage processing, including refund of the filing fee paid with respect to the 10/110,900 and 10/130,767 applications. Applicant should use application number 10/110,900 in all future communications with the Patent and Trademark Office regarding the U.S. National stage of international application PCT/NO00/00337. The application has an international filing date of 16 October 2000 under 35 U.S.C. §363 and a date of 23 April 2002 under 35 U.S.C. §371.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

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SUMIT ROY
VÆKEROVEIEN 106
OSLO N-038-3 NO NORWAY

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OFFICE OF PETITIONS

In re Application of
Sumit Roy
Application No. 10/110,900
Filed: April 23, 2002
Title of Invention: **LOW-PROFILE, NON-STENTED PROSTHESIS FOR TRANSLUMINAL IMPLANTATION**

: DECISION GRANTING
: PETITION

This is a decision on the petition filed April 14, 2006 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned November 7, 2005, for failure to timely respond to the Notice of Drawing Inconsistency, mailed October 6, 2005. Accordingly, a Notice of Abandonment was mailed February 2, 2006.

As the issue fee has already been paid, this matter is being referred to the Publishing Division for review of the drawings previously submitted and the specification shown as having been received in the USPTO on April 14, 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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EAST HANOVER NJ 07936-1080

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OFFICE OF PETITIONS

In re	:
Leroy, et al.	: DECISION REGARDING
Application No. 10/110,916	: PATENT TERM ADJUSTMENT
Filed: November 20, 2002	: AND NOTICE OF INTENT
Patent No. 7,067,084	: TO ISSUE CERTIFICATE
Issued: June 27, 2006	: OF CORRECTION

This decision is in response to the "COMMUNICATION REGARDING "FINAL" PATENT TERM ADJUSTMENT", filed August 22, 2006, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **five hundred sixty-three (563)** days.

The Office determined a patent term adjustment of six hundred twenty-four (624) days based on an adjustment for PTO delay of six hundred twenty-four (624) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by zero days of applicant delay.

The instant application was deposited as a filing under 35 U.S.C. 371 on April 17, 2002. On June 20, 2002, the Office mailed a Notification of Missing Requirements under 35 U.S.C. 371. Applicants filed a response on November 20, 2002, made timely by

obtaining a three month extension of time. The Office mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 on January 17, 2003, informing Applicants that the application had fulfilled the requirements of 35 U.S.C. 371 on November 20, 2002.

The Office has stated that "After commencement of national stage processing, delays in fulfilling the requirements of 35 U.S.C. 371 will be treated under 1.704(b)".[1] Accordingly, pursuant to 37 C.F.R. 1.704(b), applicant delay of sixty-one (61) days should have been assessed for the delay in responding to the Notification of Missing Requirements under 35 U.S.C. 371.

In view thereof, the correct determination of PTA is five hundred sixty-three (563) days (624 days of PTO delay, reduced by 61 days of applicant delay).

No fee has been charged. The Office thanks applicants for their good faith and candor in bringing this matter to the Office's attention.

The matter is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **five hundred sixty-three (563)** days, subject to any disclaimers.

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

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

Enc: draft Certificate of Correction

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[1] Comment 31 in Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14, 65 Fed. Reg. 54366 (Oct. 3 2000).

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,067,084 B1

DATED : June 27, 2006

INVENTOR(S) : Leroy, 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 (624) days

Delete the phrase "by 624 days" and insert – by 563 days—

Day : Thursday
Date: 11/16/2006

PALM INTRANET

Time: 12:11:17

PTA Calculations for Application: 10/110916			
Application Filing Date:	11/20/2002	PTO Delay (PTO):	624
Issue Date of Patent:	06/27/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	563
PTO Delay Adjustment:	-61		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
41	11/16/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		61	
37.5	06/07/2006	PTA 36 MONTHS			
37	06/27/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
36	05/16/2006	EXPORT TO FINAL DATA CAPTURE			
35	05/15/2006	DISPATCH TO FDC			
34	05/15/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
33	05/08/2006	ISSUE FEE PAYMENT VERIFIED			
32	05/08/2006	ISSUE FEE PAYMENT RECEIVED			
31	05/05/2006	FINISHED INITIAL DATA CAPTURE			
30	02/13/2006	EXPORT TO INITIAL DATA CAPTURE			
29	02/08/2006	MAIL NOTICE OF ALLOWANCE			
28	02/06/2006	ISSUE REVISION COMPLETED			
27	02/06/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
26	02/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
25	02/06/2006	NOTICE OF ALLOWABILITY			
24	03/17/2003	REFERENCE CAPTURE ON IDS			
23	03/25/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	03/17/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	12/01/2005	DATE FORWARDED TO EXAMINER			
20	11/17/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
19	11/17/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	10/05/2005	MAIL RESTRICTION REQUIREMENT	624		-1

17	09/30/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
16	09/19/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	03/25/2005	REFERENCE CAPTURE ON IDS			
14	03/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	04/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	10/21/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	03/17/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	11/20/2002	PRELIMINARY AMENDMENT			
9	03/20/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	02/03/2003	APPLICATION DISPATCHED FROM OIPE			
7	01/28/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
6	01/17/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
5	11/20/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
4	11/20/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	11/20/2002	DRAWING PRELIMINARY AMENDMENT			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Patent No. 6,809,696	:	
Issue Date: October 26, 2004	:	
Application No. 10/110,927	:	ON PETITION
Filed: August 8, 2002	:	
Attorney Docket No. 10400-000007/US	:	

This is a decision on the petition under 37 CFR 1.182, filed July 7, 2006, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige in the Publishing Division at (703) 308-9250, ext. 139.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower, 8th Floor, Room C-32 (Fax No. 571-270-9937)

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1-14-09

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Patent No. : 7,185,648
Ser. No. : 10/110,957
Inventor(s) : Paul Kenneth Rand
Issued : March 6, 2007
Title : MEDICAMENT DISPENSER
Docket No. : PG3784USW

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Glaxosmithkline
Corporate Intellectual Property, MAI B482
Five Moore Dr.
P.O. Box 13398
Research Triangle Park NC 27709-3398

ej

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MAR 1 8 2004

FITZPATRICK, CELLA, HARPER & SCINTO
30 ROCKEFELLER CENTER
NEW YORK, NY 10112

In re Application of	:
Tsutomu Akama et al	:
Serial No.: 10/110,964	: PETITION DECISION
Filed: April 18, 2002	:
Attorney Docket No.: 00005.001200	:

This is in response to the petition under 37 CFR 1.144, filed December 8, 2003, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 USC 371 and accepted on April 18, 2002, and contained claims 1-10. In a first Office action, mailed August 30, 2002, the examiner set forth a Lack of Unity between the claims, as follows:

Group I – Claims 1(in part) and 2-5, drawn to compounds where $-NR^9R^{10}$ combine to form a heterocycle and R^2 and R^3 do not combine, R^2 and R^4 do not combine and R^{17} and R^{18} do not form a heterocycle and "a" is a bond ;

Group II – Claims 1(in part) and 2-5, drawn to compounds where $-NR^9R^{10}$ do not combine to form a heterocycle and R^2 and R^3 do not combine, R^2 and R^4 do not combine and R^{17} and R^{18} do not form a heterocycle and "a" is a bond;

Group III – Claims 1(in part) and 2-5, drawn to compounds where $-NR^9R^{10}$ combine to form a heterocycle and R^2 and R^3 combine, R^2 and R^4 do not combine and R^{17} and R^{18} do not form a heterocycle and "a" is a bond;

Group IV - Claims 1(in part) and 2-5, drawn to compounds where $-NR^9R^{10}$ combine to form a heterocycle and R^2 and R^3 do not combine, R^2 and R^4 combine and R^{17} and R^{18} do not form a heterocycle and "a" is a bond;

Group VI - Claims 1(in part) and 2-5, drawn to compounds where $-NR^9R^{10}$ combine to form a heterocycle and R^2 and R^3 do not combine, R^2 and R^4 combine and R^{17} and R^{18} form a heterocycle and "a" is a bond;

Group VII - Claims 1(in part) and 2-5, drawn to compounds where $-NR^9R^{10}$ combine to form a heterocycle and R^2 and R^3 do not combine, R^2 and R^4 do not combine and R^{17} and R^{18} do not form a heterocycle and "a" is an oxygen atom;

Group VIII – Claims 6-10, drawn to methods of using.

It is not clear whether a Group V was intentionally or unintentionally omitted. The examiner reasoned that the inventions did not relate to a single general inventive concept and were independent and distinct from each other. All of the compounds were identified as pyrrolizin-3-one compounds of general formula (I). Applicant was also required to elect a single disclosed species for further prosecution.

Applicants replied October 7, 2002, by electing the species identified as compound No. 6 in Table I on page 38 of the specification. No specific election from one of the above identified groups was made, however by electing a species, the group was automatically identified. No traverse was made

In the next Office action, mailed October 15, 2002, the examiner acknowledged the election of a species and objected to claims 1-4 as containing non-elected subject matter. Claims 1-3 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. The examiner indicated allowable subject matter by defining the variables of Formula (I) from R^1 to R^{18} (some being absent).

Applicants replied on January 21, 2003, by amending claims 1-10 and adding claims 11-18. Applicants professed ignorance as to the withdrawal of parts of claims 1-4 based on a prior restriction requirement, stating that there was none, only an analysis of the claims under Unity of Invention followed by an election of species requirement. Applicants also stated that the examiner upon finding no prior art on the elected species should have expanded the scope of the search and examination until art was found or have allowed the generic claim. The rejection under 35 U.S.C. 112, was also addressed by amendment.

The examiner mailed a new Office action to applicants on April 25, 2003, in which a new restriction requirement was set forth with each variable being defined for several representative groups identified as Groups I-V, although it was also stated that the listing was not exhaustive. The examiner further stated that the compounds defined in the claims lack a significant structural element or technical feature which defines over the art, identifying a C-C-C=0 structure as the only common technical feature in the structures defined by the claims. The examiner discounted the inclusion of the pyrrolam ring structure as part of the special technical feature due to variations in bonding.

Applicants replied on May 27, 2003, by defining the variables of previously elected compound 6 of Table I, and traversing the requirement as lacking reasons for restriction/Lack of Unity and as making the groups exceedingly narrow. A conditional petition for review of the restriction requirement was also included as part of the amendment, but not as a separate paper.

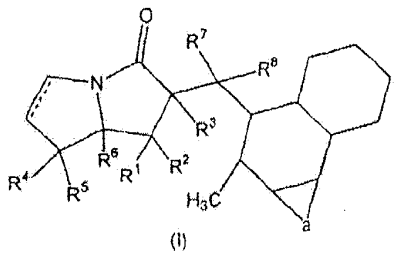
The examiner mailed a new non-Final Office action to applicants on September 8, 2003, acknowledging the election and applicants' traversal. The examiner restated that the claims do not relate to a single invention, but are drawn to multiple product inventions, multiple production inventions and multiple method of use inventions. The examiner further stated that the claims do not contain a special technical feature other than the C-C-C=O previously noted. The examiner used examples from the specification to illustrate that the structures are different and unrelated and do not contain a special technical feature in common which defines over the art. The

requirement was made Final. In addition, claims 7 and 9 were rejected under 35 U.S.C. 112, first paragraph, for lack of enablement. Claims 1-3, 5-11, 13-14, 16 and 18 were objected to as containing non-elected subject matter.

Applicants replied on December 8, 2003, by further amending claims 1, 7, 9-10, 17 and 18, canceling claims 4, 12 and 15 and adding claims 20-22. Applicants again traverse the restriction requirement and present a petition for review of the restriction requirement as a separate paper.

DISCUSSION

Applicants state that the application was filed with claims directed to the structure of Formula (I):

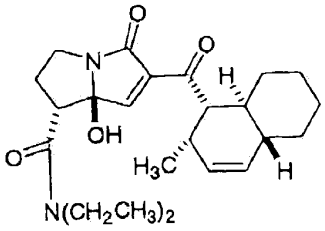


(I)

Applicants state that the first Office action appeared to only require a election of species and compound 6 of Table I was elected. (Applicants are correct in this statement.) The revised more formal restriction requirement of April 25, 2003, set forth exemplary groups, none of which apparently included previously elected compound 6. Thus applicants formulated and elected a group which did encompass compound 6. Applicants argue the propriety of the restriction requirement and in the petition set forth each of the variables for which election was required and further argue that such requirement is oppressive. Applicants further argue that the structure only varies when R^2 varies and that only four groups should be defined, where R^2 is H; where R^2 and R^3 form a bond or are joined by O; where R^2 and R^3 are joined by –CH=N-NH-; and where R^2 and R^4 are joined by –C(=O)O- or -C(=O)NR-^{14}. Applicants request clarification why this should not be an acceptable Lack of Unity requirement.

The elected species, compound 6, is shown below.

6



An analysis of the structure of formula (I) shows that the pyrrolactam fused ring and the naphthalene joined to it by a one carbon chain at the 3 position (N being the 1 position) form the basic unchanging structure which only with the insertion of a double for a single bond in certain

embodiments. This structure would be the proper base for determining whether Unity exists between this and other structures defined by the claim. For instance where R^2 and R^4 are joined to form a ring which creates a bridged ring structure a different structure is created which constitutes a different special technical feature. On this basis, multiple special technical features exist in the original structure depending on the values assigned to different variables and thus Unity is lacking between the different ring structures.

From a review of the values of the variables R^1 to R^8 and "a", which are the only variables directly attached to the rings it can be seen that only R^2 is defined as forming a ring with either R^3 or R^4. "a" is also defined as being either a three member ring with an O atom or forms a double bond between the two carbon to which it is attached. The other variables either are present, as defined, or form a double bond with the variable on an adjacent ring atom. None of these variables contribute to or detract from the basic ring structure which forms the special technical feature.

Further analysis of R^2 shows it may, with R^3 form a bond and thus is not distinct from the base structure. However, where R^2 and R^3 from a ring structure using an O or CH=N-NH two new fused ring structure are created which lack Unity with the base structure. Further, when R^2 and R^4 form a bridged ring structure with an -OC(=O)- or -NR^{14}C(=O)- structure, two additional bridged ring structures are created which are different from and lack Unity with the other structures. The limiting any of the other variables to a single value is not necessary as they do not affect any of the structures formed by the variation of R^2 and, as applicants have pointed out, is oppressive.

In summary, the Lack of Unity requirement set forth under 37 CFR 1.499 in either the first or subsequent Office actions should have been limited to, at most, five groups based on whether R^2 forms a bond with the adjacent ring atom or a fused ring structure or whether it forms a bridged ring structure with R^4, as follows:

Group I – where R^2 is Hydrogen or forms a bond with R^3;
Group II – where R^2 and R^3 are joined by OI;
Group III – where R^2 and R^3 are joined by CH=N-NH;
Group IV – where R^2 and R^4 are joined by C(=O)O to form a bridged structure; and
Group V - where R^2 and R^4 are joined by C(=O)NR^{14} to form a bridged structure.

In view of applicants' election of compound 6 as defined in the specification (which falls in Group I above) as a starting point for search and examination and since no prior art defeating patentability was found for this compound, the search and examination should have been expanded to include any compound having the same basic ring structure.

DECISION

The petition is **GRANTED.** The application will be returned to the examiner for preparation of a new Office action including examination of additional species related to the elected species and, if no prior art defeating patentability of elected Group I is found, the application, amended to include those compounds within the Group will be allowed.

In view of the petition decision, the Office action mailed February 25, 2004, is withdrawn and the application is being returned to the examiner for further consideration.

No fee is required for this petition and the petition fee charged of $130.00 will be credited to applicants' Deposit Account No. 06-1205, as directed.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile at 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

09 AUG 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Arthur R. Crawford
Nixon & Vanderhye
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

In re Application of :
KIKUCHI et al. :
Application No.: 10/110,972 : DECISION ON PETITION
PCT No.: PCT/JP01/07081 :
Int. Filing Date: 17 August 2001 :
Priority Date: 21 August 2000 :
Attorney Docket No.: 427-59 :
For: METHOD OF MEASURING AND METHOD OF JUDGING THICKNESS OF SHEET TYPE FOOD, METHOD OF PRODUCING SHEET TYPE FOOD, AND APPARATUS FOR SAME

This decision is in response to applicants' "Response to Improper Notice of Abandonment" filed on 18 July 2002, which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 17 August 2001, applicants filed international application no. PCT/JP01/07081 which claimed a priority date of 21 August 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 February 2002. A Demand was not filed with the International Preliminary Examination Authority. The deadline for entry into the national stage in the United States expired 30 months from the priority date, on 21 February 2003.

On 18 April 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee; a preliminary amendment; and an executed declaration.

On 26 June 2002, the United States Elected Office mailed a NOTIFICATION OF ABANDONMENT UNDER 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the full U.S. Basic National Fee by 20 months (37 CFR 1.495(b)(2).

On 18 July 2002, applicants filed the present petition.

DISCUSSION

A review of the application file and present petition reveal that the above identified application is the United States national stage application of PCT/JP01/07081 which claimed a priority date of 21 August 2000. The deadline for entry into the national stage in the United States expires 30 months from the priority date, on 21 February 2003.

As stated in 37 CFR 1.495(b):

> To avoid abandonment of the application, the applicant shall furnish to the United States Patent and Trademark Office not later than the expiration of thirty months from the priority date:
>
> (1) A copy of the international application, unless it has been previously communicated by the International Bureau or unless it was originally filed in the United States Patent and Trademark and;
>
> (2) The basic national fee.

On 18 April 2002, applicant filed the appropriate basic national fee prior to the expiration of thirty months from the priority date. Therefore, the payment of the basic national fee was timely and the Notification of Abandonment was mailed in error.

CONCLUSION

For the reasons above, the request is **GRANTED** and the Notification of Abandonment mailed 26 June 2002 is hereby **VACATED**. The holding of Abandonment is withdrawn.

The application has an international filing date of 17 August 2001 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **18 April 2002**.

This application is being returned to the United States/Designated Elected Office for processing in accordance with this decision. It is noted that applicant has requested that national stage processing begin under 35 U.S.C. 371.

Anthony Smith
Attorney-Advisor
PCT Legal Office
Tel: (703) 308-6314
Fax: (703) 308-6459

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AUG 28 2007

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of
Ogawa et al.
Serial No.: 10/110,997
Filed: April 19, 2002
Attorney Docket No.: BJS-249-259

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed July 15, 2007, requesting withdrawal of finality of the Office action of July 5, 2007.

BACKGROUND

Most recently, applicants filed a Request for Continued Examination (RCE) on April 2, 2007.

In response to the RCE, the examiner mailed a final Office action on July 5, 2007, setting a three month shortened statutory period for reply. In this Office action, claims 1-18, 25 and 27-29 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The examiner also pointed out that applicants' amendment necessitated the new ground(s) of rejection presented in this Office action which was made final.

In response thereto, applicants filed this petition requesting reconsideration and removal of the finality of the Office action of July 5, 2007.

DISCUSSION

Applicants argue the final Office action of July 5, 2007 is premature and contrary to the MPEP. Specifically, applicants note that an amendment filed March 1, 2007 after a final rejection was issued was denied entry for allegedly raising new issues requiring further search and/or consideration. Applicants point out MPEP 706.07 (h) and 706.07 (b) which provide the following:

"706.07(h) Request for Continued Examination (RCE) Practice

VIII. FIRST ACTION FINAL AFTER FILING AN RCE
The action immediately subsequent to the filing of an RCE with a submission and fee under 37 CFR 1.114 may be made final only if the conditions set forth in MPEP § 706.07(b) for making a first action final in a continuing application are met. See http://www.uspto.gov/web/offices/pac/mpep/documents/0700 _706 07 h.htm (July 15, 2007).

706.07(b) Final Rejection, When Proper on First Action
However, it would not be proper to make final a first Office action in a continuing or substitute application where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (A) new issues were raised that required further consideration and/or search, or (B) the issue of new matter was raised. See http://www.uspto.gov/web/offices/pac/mpep/documents/0700 _706 07 b.htm#sect706.07b (July 15, 2007) (Emphasis added)."

Applicants' argument is persuasive that the final Office action issued July 5, 2007 was premature.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for an action not inconsistent with this decision.

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

John LeGuyader
Director, Technology Center 1600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

OGAWA, T. et al. Atty. Ref.: 249-259; Confirmation No. 1473

Appl. No. 10/110,997 TC/A.U. 1642

Filed: April 19, 2002 Examiner: Canella

For: PROCESS FOR PRODUCING POLYPEPTIDE

* * * * * * * * * * * *

July 15, 2007

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

Sir:

REQUEST TO WITHDRAW THE FINALITY OF THE OFFICE ACTION DATED JULY 5, 2007 AND RE-MAILING OF NEW, NON-FINAL ACTION WITH DATE FOR RESPONSE RE-SET FROM MAILING OF NEW NON-FINAL OFFICE ACTION

The Examiner is requested to withdraw the finality of the Office Action dated July 5, 2007 and re-mail a new, non-final Office Action with the date for response re-set from mailing of new, non-final office action, as the finality of the Office Action dated is submitted to be premature and contrary to the MPEP.

Specifically, the undersigned notes that an Amendment After Final Rejection filed March 1, 2007 was denied entry as the Amendment allegedly raised new issues requiring further search and/or consideration. See box (3.)(a) of the Advisory Action dated March 22, 2007.

MPEP §§ 706.07(h) and 706.07(b) provide as follows:

> 706.07(h) Request for Continued Examination (RCE) Practice
>
> VIII. FIRST ACTION FINAL AFTER FILING AN RCE
>
> The action immediately subsequent to the filing of an RCE with a submission and fee under 37 CFR 1.114 may be made final only if the conditions set forth in MPEP § 706.07(b) for making a first action final in a continuing application are met. See http://www.uspto.gov/web/offices/pac/mpep/documents/0700_706_07_h.htm (July 15, 2007).
>
> 706.07(b) Final Rejection, When Proper on First Action
>
> However, it would not be proper to make final a first Office action in a continuing or substitute application where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (A) new issues were raised that required further consideration and/or search, or (B) the issue of new matter was raised. See http://www.uspto.gov/web/offices/pac/mpep/documents/0700_706_07_b.htm#sect706.07b (July 15, 2007) (Emphasis added).

The undersigned telephoned the Examiner and left a voice mail message on July 15, 2007 requesting clarification as to the basis of the finality of the Office Action dated July 5, 2007.

The finality of the Office Action dated July 5, 2007 is submitted to be premature and contrary to the MPEP, as explained in MPEP § 706.07(b), for example. Withdrawal of the finality of the Office Action and re-mailing of a new, non-final Office Action, with the date for response being re-set from the mailing of the new Action, are requested.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /B. J. Sadoff/
B. J. Sadoff
Reg. No. 36,663

BJS:
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

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OFFICE OF PETITIONS

In re Application of
Tatsuya Ogawa et al.
Application No. 10/110,997
Filed: April 19, 2002
Attorney Docket No. BJS-249-259

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 14, 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 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 reason set forth in the request, "[A]ssignee has instructed to transfer responsibility..." does not meet any of the conditions set forth in 37 CFR 10.40.

In view of the file record an assignee has not properly intervened in this application. Compliance with 37 CFR 3.73(b) has not been met. If assignee of the entire interest under 37 CFR 3.71 desires to intervene in this application or appoint counsel to represent him, then the appropriate power of attorney documents must be submitted. A courtesy copy will be mailed to the address noted in the petition.

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

A non-final rejection was mailed on September 12, 2007. Failure to timely respond will result in the abandonment of this application.

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

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Mr. Alfred Zaher
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103-6998

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Arlington, VA 22203

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OFFICE OF PETITIONS

In re Application of :
Tatsuya Ogawa et al. :
Application No. 10/110,997 : DECISION ON PETITION
Filed: April 19, 2002 : TO WITHDRAW
Attorney Docket No. BJS-249-259 : 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 14, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to B. J. Sadoff and all attorneys/agents of record has been revoked by the assignee of the patent application on November 29, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

A non-final rejection was filed on September 12, 2007. Failure to timely respond will result in the abandonment of this application.

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 Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Sughrue-265550
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

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WENDEROTH LIND & PONACK LLP
2033 K STREET NW, SUITE 800
WASHINGTON, DC 20006-1021

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OFFICE OF PETITIONS

In re Application of :
Makoto Komatsu et al :
Application No. 10/111,012 : DECISION GRANTING PETITION
Filed: April 19, 2002 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. 2002-0537A :

This is a decision on the petition, filed March 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 February 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 (703) 305-8680.

This matter is being referred to Technology Center AU 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).

24 JUL 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Michael McKenna
500 West Madison, Suite 3800
Chicago, Illinois 60661

In re Application of :
ALMBLAD, Robert E. :
Application No.: 10/111,022 : DECISION ON PETITION
PCT No.: PCT/US00/42438 : UNDER 37 CFR 1.137(a)
Int. Filing Date: 01 December 2000 :
Priority Date: 01 December 1999 :
Attorney Docket No.: None :
For: OPERATOR ASSISTED METHOD FOR MAKING KEYS :

This is a decision on applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)" filed in the Patent and Trademark Office (PTO) on 18 April 2002.

BACKGROUND

On 01 December 2000, applicants filed international application no. PCT/US00/42438 which claimed a priority date of 01 December 1999 and designated the United States.

No Demand was filed with the International Preliminary Examining Authority electing the United States. As a result the deadline for entry into the national stage in the U.S. expired 20 months from the priority date, 01 July 2001.

On 18 April 2002, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: the basic national fee for a small entity; PCT Demand; declaration of the inventors; and Petition to Revive under 37 CFR 1.137(a).

DISCUSSION

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay requires (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable; and (4) a terminal disclaimer pursuant to 37 CFR 1.137(c). The requisite petition fee of $55.00 has been received satisfying Item (2) above.

Regarding Item (1), the proper response was payment of the basic national fee. The fee of $335 is sufficient for entry into the national stage. As for Item (4), the terminal disclaimer is not required in this application since it was filed after 08 June 1995.

With regard to Item (3), Section 711.03(c) of the Manual of Patent Examining Procedure states: "A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (A) the error was the cause of the delay at issue; (B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care."

The petitioner states in the present petition under 37 CFR 1.137(a) that,

> "This application was originally filed in the United States Provisional Application No. 60/168,334 on 01 December 1999. On 01 December 2000, a full Utility Application was filed with claims in the PCT and assigned Serial No. PCT/US00/42438. Each form that was subsequently filed received from the PCT had the dates changed by hand or mismarked. It was assumed, as when provisional application is filed in the U.S. and then the subsequent full utility application is filed, the original filing date is subsumed when assigned the new filing date, further clouding the issue to clerical staff. The error might have been caught if Notice of Publication has been timely, however, to compound these errors, we received notification that as a result of a clerical error on the part of the PCT Office, this file was not published promptly and was only published earlier this year on 03 January 2002."

Petitioner has not provided sufficient evidence that there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance and that the employee(s) was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. In the present instance, applicant filed the application indicating a priority date of 01 December 1999. Applicant should have a system in place to enter the national stage at either twenty or thirty months. Additionally, as stated in Section 711.03(c) of the Manual of Patent Examining Procedure, "[d]elay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or MPEP, however, does not constitute 'unavoidable' delay."

In summary, the actions taken in the prosecution of this case do not reflect unavoidable delay. Specifically, unavoidable delay is present only where petitioner and those acting for petitioner take all actions necessary to continue the prosecution of an application, but through the intervention of unforeseen circumstances, a required action is not timely taken. The actions and circumstances described in this petition; however, do not reflect the "care or diligence that is generally used and observed by prudent and careful men

in relation to their most important business." Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Therefore, applicant has not satisfied item (3) above. Since applicant has not met the requirements for revival of an application under 37 CFR 1.137(a), revival under this section would not be proper.

Additionally, a review of the declarations filed on 18 April 2002 reveals that the declaration executed by Robert Almblad is not in compliance with 37 CFR 1.497(a)(3). 37 CFR 1.497(a)(3) requires that the declaration must "identify each inventor and the residence and country of citizenship of each inventor." In this instance, the declaration executed by Robert Almblad does not identifty the second inventor, Paul Jurczak. Therefore, a new declaration executed by Robert Almblad must be filed in order to fulfill the declaration requirement under 35 U.S.C. 371.

RECOMMENDATION

Applicant may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(b) requesting that the application be revived. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "delay was unintentional." In this instance, the fee required by law for revival of an unintentionally abandoned application is $640.

CONCLUSION

Therefore, the petition is **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137 (a)." Extensions of time may be obtained under 37 CFR 1.136(a).

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

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

07 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael McKenna
500 West Madison, Suite 3800
Chicago, Illinois 60661

In re Application of :
ALMBLAD, Robert E. :
Application No.: 10/111,022 : DECISION ON PETITION
PCT No.: PCT/US00/42438 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 01 December 2000 :
Priority Date: 01 December 1999 :
Attorney Docket No.: None :
For: OPERATOR ASSISTED METHOD FOR MAKING KEYS :

The petition to revive under 37 CFR 1.137(b) filed 30 September 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the application which was unintentionally abandoned for the failure to file a Demand . . . " has been construed as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, Petitioner must immediately notify the PCT Legal Office of such error.

A review of the application file reveals that applicants have submitted the basic national fee of $335 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **30 September 2002**.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

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OFFICE OF PETITIONS

In re Application of :
David Gurley, et al. :
Application No. 10/111,029 : ON PETITION
Filed: April 18, 2002 :
Attorney Docket No. A2207-1P US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 24, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed December 2, 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 1626, for further processing of the request for continued examination under 37 CFR 1.114 filed June 24, 2004.

Sherry D. Brinkley

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

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OFFICE OF PETITIONS

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO IL 60606-6357

In re Patent No. 6,887,898
Issue Date: May 3, 2005
Application No. 10/111,039
Filed: April 19, 2002
Attorney Docket No. 30443/36650

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed December 23, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 3, 2009, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Since the maintenance fee paid was at the small entity rate and small entity status has not been established, an additional $490 was charged to petitioner's Deposit Account No. 13-2855, as authorized.

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

The patent file is being referred to Files Repository.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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APR 20 2010

OFFICE OF PETITIONS

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

In re Application of :
Darrick S.H.L. Kim :
Application No. 10/111,039 : NOTICE
Filed: April 19, 2002 :
Attorney Docket No. 30443/36650 :

This is in response to the paper filed April 6, 2010, entitled "ASSERTION OF ENTITLEMENT TO SMALL ENTITY STATUS AND REQUEST FOR REFUND OF ADDITIONAL MAINTENANCE FEE".

The statement claiming small entity status of April 6, 2010, has been made of record and small entity status has been accorded.

The request for refund of the large entity portion of the maintenance fee ($490.00) is being credited to deposit account no. 13-2855 as authorized. **Applicant should note that the check submitted on June 29, 2009 was in the amount of $2110.00 instead of the correct amount $2130.00 ($490.00 + $1640.00).**

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

The application file is being referred to the files Repository.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

12 NOV 2002
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KUBOVCIK & KUBOVCIK
The Farragut Building
Suite 710
900 17th Street, N.W.
Washington, D.C. 20006

In re Application of
IKEDA, Hiroaki, et al.
U.S. Application No.:10/111,074
PCT No.: PCT/JP00/07295
International Filing Date: 20 October 2000
Priority Date: 22 October 1999
Attorney's Docket No.: MAM-019
For: ELECTRODE FOR LITHIUM SECONDARY CELL AND LITHIUM SECONDARY CELL

COMMUNICATION

This communication is issued in response to applicants' "Request For Correction Of PTO Records" filed 25 September 2002. No petition fee is required.

BACKGROUND

On 20 October 2000, applicants filed international application PCT/JP00/07295 which claimed a priority date of 22 October 1999 and which designated the United States. On 03 May 2001, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 18 May 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 22 April 2002.

On 19 April 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 01 July 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required. The Notification also informed applicants that the failure to submit these materials within two months of the date of the Notification would result in abandonment of the application.

On 31 July 2002, a Notification Of Acceptance was mailed which listed the present application number, 10/111,074. However, the applicant's name and the name/mailing address of counsel were inconsistent with the present application. The Notification identified 10 July 2002 as the 35 U.S.C. 371 date.

On 01 August 2002, applicants filed a "Response To Notice Of Missing Requirements" which included payment of the $130 surcharge and an executed declaration.

On 25 September 2002, applicant filed the submission considered herein which identifies the errors in the Notification Of Acceptance mailed 31 July 2002 (including the 35 U.S.C. 371 date) and requests correction thereof.

DISCUSSION

A review of the application file confirms that, as indicated by applicants, the Notification Of Acceptance mailed 31 July 2002 was issued in error. Accordingly, the Notification Of Acceptance mailed 31 July 2002 is hereby vacated.

The declaration filed 01 August 2002 is in compliance with 37 CFR 1.497 and, in combination with the surcharge payment, comprises a proper and complete response to the Notification Of Missing Requirements mailed 01 July 2002.

CONCLUSION

The Notification Of Acceptance mailed 31 July 2002 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a new Notification Of Acceptance and filing receipt. The 35 U.S.C. 371(c) date is 01 August 2002.

Boris Milef
PCT Legal Examiner
PCT Legal Office

RMR/BM:rmr

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/111,099	3/17/03	LASSE LEHTONEN, ET AL.	06267.0088

Title: **A NEW USE OF LEVOSIMENDAN**

Art Unit Paper Number

Correspondence Address:
STEVEN J. SCOTT
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
1300 I STREET NW.
WASHINGTON DC 20005

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 330,318

Grant Date: 03-Apr-03

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved

for Commissioner of Patents and Trademar

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

This license is granted under 37 CFR 5.15(a).

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Petitioner: LEHTONEN et al. :DECISION ON REQUEST
Petition No.: P-111,999 :UNDER 37 CFR 5.25
Petition Filing Date: 17 March 2003
Docket Number: 06267.0088

Title: A NEW USE OF LEVOSIMENDAN

This is a decision on the petition for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 b granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R 5.25 in that there is an adequate showing that the subject matter in question was no under secrecy order, that the license was diligently sought, and that the material was file abroad without the required license under 37 C.F.R 5.11 through error and withou deceptive intent.

Country	Date
Finland	22 October 1999

Yvonne R. Abbott
Patent Examiner
(703) 308-2866

03 MAY 2004

#14

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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CROWELL & MORING LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300

In re Application of :
MAO, Yumin *et al* :
U.S. Application No.: 10/111,105 :
PCT No.: PCT/CN00/00327 :
Int. Filing Date: 16 October 2000 : **DECISION**
Priority Date: 22 October 1999 :
Attorney's Docket No.: 2310/51148 :
For: A NOVEL STEROID DEHYDROGENASE 34 :
AND THE POLYNUCLEOTIDE ENCODING :
SAME :

This is a decision on the papers filed on 24 February 2004 and the paper and diskette submitted 20 April 2004 which are treated as a petition to withdraw the holding of abandonment. No fee is required.

BACKGROUND

On 08 July 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a computer readable form (CRF) sequence listing diskette was required. A two-month time period for response was set with extensions of time available.

On 30 August 2002, applicants filed a "Response to Notice of Missing Requirements" which was accompanied by, *inter alia*, a CRF sequence listing diskette.

On 20 October 2003, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that the CRF sequence listing diskette submitted on 30 August 2002 was defective. The Raw Sequence Listing Error Report from the Scientific and Technical Information Center (STIC) indicated that a corrected diskette was required.

On 28 October 2003, applicants purportedly filed a response which included a substitute CRF sequence listing diskette and hard copy of the sequence listing. This response and substitute diskette were not located in the file.

On 05 February 2004, the DO/EO/US mailed a Notification of Defective Response Abandonment (Form PCT/DO/EO/918) because a proper response to the Form PCT/DO/EO/905 mailed 08 July 2002 was not received within the time period set.

On 24 February 2004, applicants submitted the instant petition which was accompanied by, *inter alia*, a copy of the documents purportedly filed 28 October 2003 and a date-stamped postcard receipt for the 28 October 2003 filing. But applicants did not provide a substitute CRF sequence listing diskette with this petition.

On 20 April 2004, applicants submitted a substitute copy of the CRF sequence listing diskette purportedly filed 28 October 2003 after a call from James Thomson of the Office of PCT Legal Administration.

DISCUSSION

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants provided a copy of the date-stamped filing receipt for the documents and diskette submitted 28 October 2003. The filing receipt records that a "Substitute Sequence Listing (paper and CRF) and Statement Under 37 C.F.R. §1.821(e)" were received in the USPTO. The filing receipt is stamped "OIPE OCT 28 2003" across its face. The U.S. application number, attorney docket number, filing date and name of inventors were listed on the postcard receipt.

Applicants also provided copies of the documents purportedly filed 28 October 2003 including the CRF sequence listing diskette. The CRF sequence listing diskette was checked by the STIC and found that the sequences were good with no errors found.

Accordingly, applicants have provided *prima facie* evidence that a timely and proper response to the Form PCT/DO/EO/916 was originally received by the USPTO on 28 October 2003.

DECISION

Applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The Notification of Defective Response Abandonment (Form PCT/DO/EO/918) mailed 05 February 2004 is hereby **VACATED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 16 October 2000, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 22 April 2002.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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ALEXANDRIA, VA 22313-1450
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Paper No. 9

GERALD M. MURPHY, JR.
BIRCH STEWART KOLASCH & BIRCH LLP
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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JUN 0 4 2003

OFFICE OF PETITIONS

In re Application of :
Ila Sircar et al :
Application No. 10/111,110 :
Filed: October 16, 2002 :
Attorney Docket No. 0485-0199P :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed April 29, 2003, to change the order of the names of the inventors.

The petition is granted.

Office records have been corrected to reflect the desired order of inventorship. A corrected filing receipt accompanies this decision.

This file is being forwarded to Technology Center 1600.

Telephone inquiries concerning this matter may be directed to Irvin Dingle at (703) 306-5684.

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

Attachment: Corrected Filing Receipt

08 JUL 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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James A. Henricks
HENRICKS, SLAVIN & HOLMES, LLP
840 Apollo Street, Suite 200
El Segundo, CA 90245

In re Application of
GRANATELLI, David B. *et al*
U.S. Application No.: 10/111,125
PCT No.: PCT/AU00/00658
Int. Filing Date: 09 June 2000
Priority Date: 11 June 1999
Attorney Docket No.: 010100-112
For: METHOD AND SYSTEM FOR REMOTELY MONITORING TIME VARIANT DATA

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an International Application for Patent Designating the US Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 19 April 2002 with the national stage papers is hereby **GRANTED** as follows:

The appropriate basic national fee and petition fee have been paid. The surcharge fee of $130.00 pursuant to 37 CFR 1.492(e) has been charged to counsel's Deposit Account No. 50-0655 as authorized. Applicants state that "[t]he entire delay in filing the 35 U.S.C. 371(c) requirements from their due date until filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 09 June 1999, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **19 April 2002**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

SPE C. Low

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/28/06

TO SPE OF : ART UNIT 1614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/111,167 Patent No.: 6723737

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: _____

ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER Ardin H. Marschel — **SPE**

1614 — **Art Unit**

7.20.6

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Rankin, Hill, Porter & Clark, LLP
700 Huntington Building
925 Euclid Avenue
Cleveland OH 44115-1405

In re Application of	:	
Brommersma et al.	:	
PCT No.: PCT/EP01/09044	:	DECISION
Appl. No.: 10/111,196	:	
Int. Filing Date: 04 August 2001	:	ON
Priority Date: 26 August 2000	:	
Attorney's Docket No.: SCH - 14009	:	PETITION
For: Monopolar And Bipolar Electrode	:	
For A Urological Resectoscope	:	

This is in response to the "Petition Under 37 C.F.R. § 1.181" filed on 07 August 2003.

BACKGROUND

This international application was filed on 04 August 2001, designated the United States, and claimed an earliest priority date of 26 August 2000. The international bureau transmitted a copy of the published international application to the USPTO on 07 March 2002. Accordingly, the 30 month period to pay the basic national fee in the U.S. expired as of midnight on 26 February 2003.

On 19 April 2002, applicants filed inter alia the basic national fee.

On 24 July 2002, a Notification Of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors.

On 07 August 2003, applicants filed the instant petition.

DISCUSSION

The instant petition requests that a Declaration accompanying the petition be accepted as a

copy of a declaration alleged to have been filed on 04 June 2002. The petition is accompanied by a copy of a return postcard receipt itemizing the declaration and stamped as "Rec'd PCT/PTO 04 JUN 2002." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, the copy of the declaration filed with the petition is accepted as a copy of the declaration as originally filed on 04 June 2002.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of the application under 35 U.S.C. 371 (c)(1), (2) and (4) is **04 June 2002**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

06 AUG 2002

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WASHINGTON, D.C. 20231
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Thomas M. Galgano
GALGANO & BURKE
300 Rabro Drive
Suite 135
Hauppauge, New York 11788

#4

In re Application of :
Stephen Colin RUFFLE, et al. :
Application No.: 10/111,227 :
PCT No.: PCT/GB00/03526 :
Int. Filing Date: 14 September 2000 :
Priority Date: 14 September 1999 :
Attorney Docket No.: 1182-47 :
For: IMPROVED WELDING SOCKET :

DECISION ON
PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 23 April 2002 in the above-captioned application is hereby **GRANTED** as follows:

The appropriate petition fee as required by 37 CFR 1.17(m) has been submitted.

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirement under 37 CFR 1.137(b)(3) at the time of filing this petition.

A review of the application papers reveals that no declaration of the inventors in compliance with 37 CFR 1.497 was filed.

Applicants' claim for priority is acknowledged. The application has an international filing date of **14 September 2000** under 35 U.S.C. 363.

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application is being forwarded to the United States Designated/Elected Office for processing in accordance with this decision, that is, for issuance of a Notification of Missing Requirements under 35 U.S.C. 371(c) (Form PCT/DO/ EO/905) to inform applicants that a declaration of the inventors in compliance with 37 CFR 1.497 along with the surcharge for

filing an oath or declaration after 30 months must be filed in order to avoid abandonment of the application as to the national stage in the United States.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

NNH/LES:hn

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

Tel: (703) 308-6508

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Thomas M. Galgano, Esq.
GALGANO & ASSOCIATES, PLLC
SUITE 204
20 W. PARK AVE.
LONG BEACH NY 11561

COPY MAILED

JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Ruffle, et al. : DECISION ON PETITION
Application No. 10/111,227 :
Filed: September 3, 2002 :
Atty. Dkt. No.: 1182-47 :

This is a decision on the petition under 37 CFR 1.137(a), filed April 20, 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 mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

A Notice of Appeal was filed September 28, 2005. An appeal brief was filed December 28, 2005. A Notice of Non-Compliant Brief (Notice) was mailed March 13, 2006. The Notice set a one month or 30 day (whichever being longer) period of time for reply. A reply to the Notice in the form of an amended appeal brief was filed April 17, 2006. This application became abandoned April 14, 2006 for failure to timely submit a proper reply to the Notice mailed March 13, 2006. A second Notification of Non-Compliant Brief was mailed December 28, 2006. Notice of Abandonment was mailed January 16, 2007.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The present petition lacks requirement (3) above. Petitioners have failed to present a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioners attribute the failure to timely reply to the Notice to the fact that the second Notification of Non-Compliant Brief was not mailed until nine months after appellants' amended brief was filed, thus, appellants had insufficient time to reply to the second Notification of Non-Compliant Brief. Petitioners also belatedly argue that appellants' first brief should have been accepted by the USPTO for various reasons.

Petitioners' arguments have been considered, but are not found convincing. In accordance with 37 CFR 41.37(d), "[i]f a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed."

Accordingly, there was no requirement upon the USPTO to issue a second Notification of Non-Compliant Brief or to set a new period of time for reply to the first Notice of Non-Compliant Brief. Indeed, absent timely submission of an amended brief in response to a Notice of Non-Compliant Brief, the appeal stands dismissed.

As to petitioners' belated argument that the original appeal brief should have been accepted by the USPTO, had appellants disagreed with the holding of noncompliance, the onus was on appellants to have timely submitted a petition under 37 CFR 1.181 or 41.3.

Any renewed petition must be supported by evidence that the entire period of time, from the time a reply was due until the filing of a grantable petition, has been unavoidable.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

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

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

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450

Application No. 10/111,227

Alexandria, VA 22313-1450

By facsimile: (703) 872-9306

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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LONG BEACH NY 11561

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OFFICE OF PETITIONS

In re Application of :
Ruffle, et al. : DECISION ON PETITION
Application No. 10/111,227 :
Filed: September 3, 2002 :
Atty. Dkt. No.: 1182-47 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 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 mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

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).

Submission of the petition fee is a prerequisite prior to treatment on the merits of any petition submitted pursuant to 37 CFR 1.137(b)(2). While the petition references a fee transmittal, no such document was received.

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

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450

Application No. 10/111,227

Alexandria, VA 22313-1450

By facsimile: (703) 872-9306

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas M. Galgano, Esq.
GALGANO & ASSOCIATES, PLLC
SUITE 204
20 W. PARK AVE.
LONG BEACH NY 11561

COPY MAILED

DEC 10 2007

OFFICE OF PETITIONS

In re Application of :
Ruffle, et al. : DECISION ON PETITION
Application No. 10/111,227 :
Filed: September 3, 2002 :
Atty. Dkt. No.: 1182-47 :

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

The petition is **DISMISSED**.

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

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).

Submission of the petition fee is a prerequisite prior to treatment on the merits of any petition submitted pursuant to 37 CFR 1.137(b)(2). Petitioners state that a credit card authorization form was previously submitted and have provided a copy of a postcard date stamped August 7, 2007. No such form is contained in the record. Furthermore, a review of the finance records for the instant application does not reveal receipt of any fees on or about August 2007.

Application No. 10/111,227

Moreover, the current petition fee required under 37 CFR 1.137(b) is $770.00 for a small entity. Any renewed petition must be accompanied by the required petition fee.

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand:	U.S. Patent and Trademark Office Customer Service Window Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas M. Galgano, Esq.
GALGANO & ASSOCIATES, PLLC
SUITE 204
20 W. PARK AVE.
LONG BEACH NY 11561

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SEP 0 2 2008

OFFICE OF PETITIONS

In re Application of :
Ruffle, et al. :
Application No. 10/111,227 : ON PETITION
Filed: September 3, 2002 :
Attorney Docket No. 1182-47 :

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

The petition is **DISMISSED**.

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

A Notice of Appeal was filed September 28, 2005. An appeal brief was filed December 28, 2005. A Notice of Non-Compliant Brief (Notice) was mailed March 13, 2006. The Notice set a one month or 30 day (whichever being longer) period of time for reply. A reply to the Notice in the form of an amended appeal brief was filed April 17, 2006. This application became abandoned April 14, 2006 for failure to timely submit a proper reply to the Notice mailed March 13, 2006. A second Notification of Non-Compliant Brief was mailed December 28, 2006. Notice of Abandonment was mailed January 16, 2007.

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

The instant petition fails to satisfy requirement (1) set forth above. The appeal brief submitted August 9, 2007 has been reviewed by the examiner of record and found to be non-compliant. See, enclosed.

Any renewed petition must be accompanied a proper reply within the meaning of 37 CFR 1.137(b), such as an appeal brief in full compliance with the provisions set forth at 37 CFR 41.37 and the attached examiner's communication..

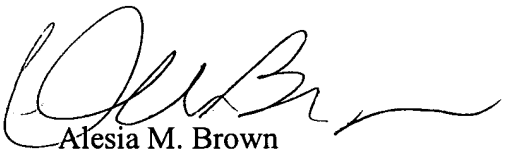
Further correspondence with respect to this matter should be addressed as follows:

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) 272-3205.



Alesia M. Brown
Petitions Attorney
Office of Petitions

Brown, Alesia

From: Hewitt, James
Sent: Wednesday, April 09, 2008 7:51 PM
To: Brown, Alesia
Subject: PTO-462 Notice of Non-Compliant Appeal Brief

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	**Application No.** 10/111,227	**Applicant(s)** RUFFLE ET AL.	
	Examiner JAMES M. HEWITT	**Art Unit** 3679	

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

The Appeal Brief filed on *09 August 2007* is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file anamended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).

3. At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).

4. (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

5. The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))

6. The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).

7. The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).

8. The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).

9. The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).

10. Other (including any explanation in support of the above items):

To explain box 2, the claims being appealed are not identified.

To explain box 4, an explanation of the dependent claims should not be included..

/James M Hewitt/
Primary Examiner, Art Unit 3679

8/25/2008

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Thomas M. Galgano
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Long Beach NY 11561

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APR 29 2009

OFFICE OF PETITIONS

In re Application of :
Ruffle, et al. :
Application No. 10/111,227 : DECISION ON PETITION
Filed: September 3, 2002 :
Attorney Docket No. 1182-47 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

A Notice of Appeal was filed September 28, 2005. An appeal brief was filed December 28, 2005. A Notice of Non-Compliant Brief (Notice) was mailed March 13, 2006. The Notice set a one month or 30 day (whichever being longer) period of time for reply. A reply to the Notice in the form of an amended appeal brief was filed April 17, 2006. This application became abandoned April 14, 2006 for failure to timely submit a proper reply to the Notice mailed March 13, 2006. Notice of Abandonment was mailed January 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief, (2) the required petition fee, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3679 for appropriate action by the Examiner.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Paper No.

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

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OCT 30 2006
OFFICE OF PETITIONS

In re Application of	:	
David Pritchard	:	DECISION ON APPLICATION
Application No. 10/111,252	:	FOR
Filed: August 23, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 50221-60096US	:	

This is a decision on the "PETITION FOR REVIEW OF PATENT TERM EXTENSION UNDER 37 C.F.R. §§§ 1.181 AND 1.704(c)(8)," filed August 4, 2005. Applicant requests that the initial determination of patent term adjustment be corrected from three (3) to eighty-seven (87) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is EIGHTY-SEVEN (87) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 4, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 3 days. On August 4, 2005, applicant timely[1] submitted an application for patent term adjustment (with required fee). Applicant requests correction of the PTA to 87 days. Applicant disputes the reduction of 84 days for the period from January 19, 2006 to April 23, 2006 associated with the response filed April 13, 2006. Applicant asserts that this

[1] The Issue Fee payment was also received on August 4, 2006.

response was expressly requested by the examiner and thus, no reduction pursuant to 1.704(c)(8) is warranted.

Applicant is correct. The record supports a conclusion that this additional response was expressly requested by the examiner. Accordingly, the PTA should not have been reduced by 84 days, the number of days beginning on the day after the date the initial reply was filed, January 20, 2006, and ending on the date that the supplemental reply or other such paper was filed, April 13, 2006 for the filing of the supplemental response. The reduction of 84 days has been removed.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is EIGHTY-SEVEN (87) 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 for issuance of the application.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

PTA Calculations for Application: 10/111252			
Application Filing Date:	08/23/2002	PTO Delay (PTO):	244
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	241
Post-Issue Petitions:	0	Total PTA (days):	87
PTO Delay Adjustment:	84		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
47	10/27/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	84		
39	05/04/2006	MAIL NOTICE OF ALLOWANCE			
38	05/04/2006	ISSUE REVISION COMPLETED			
37	05/04/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
36	05/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
35	04/28/2006	NOTICE OF ALLOWABILITY			
34	04/23/2006	DATE FORWARDED TO EXAMINER			
33	04/13/2006	SUPPLEMENTAL RESPONSE		84	31
32	01/31/2006	DATE FORWARDED TO EXAMINER			
31	01/19/2006	RESPONSE AFTER NON-FINAL ACTION		61	29
30	01/19/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	08/19/2005	MAIL NON-FINAL REJECTION			
28	08/18/2005	NON-FINAL REJECTION			
27	06/16/2005	REFERENCE CAPTURE ON IDS			
26	06/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	24
25	06/28/2005	DATE FORWARDED TO EXAMINER			
24	06/16/2005	RESPONSE AFTER NON-FINAL ACTION		92	21
23	06/16/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	12/16/2004	MAIL NON-FINAL REJECTION			
20	12/13/2004	NON-FINAL REJECTION			
19	09/30/2004	DATE FORWARDED TO EXAMINER			
18	09/27/2004	RESPONSE TO ELECTION / RESTRICTION FILED		4	16

17	09/27/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
16	06/23/2004	MAIL RESTRICTION REQUIREMENT	244		-1
15	06/22/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
14	04/20/2004	CORRESPONDENCE ADDRESS CHANGE			
13	12/19/2003	CORRESPONDENCE ADDRESS CHANGE			
12	12/09/2003	CORRESPONDENCE ADDRESS CHANGE			
11	09/11/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	08/23/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	04/03/2003	CASE DOCKETED TO EXAMINER IN GAU			
7	10/29/2002	APPLICATION DISPATCHED FROM OIPE			
6	10/24/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
5	10/18/2002	NOTICE OF DO/EO ACCEPTANCE MAILED			
3	08/23/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Mailed: 12/3/04

spg
Paper Number _____

In re application of
Thomas Tyborski et al.
Serial No. 10/111,269
Filed: April 19, 2002
For: METHOD OF CLEANING UNITS
TO PREPARE COFFEE

DECISION ON
PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181, filed July 30, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of July 14, 2004, for failure to timely file a proper reply to the Office letter mailed September 10, 2003 be withdrawn since the applicants did timely file a reply on January 16, 2003. (Copies of the papers filed January 16, 2004 are attached to the instant petition as well as a copy of the USPTO date stamped postcard receipt dated January 16, 2004.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's reply was properly filed on January 16, 2004 as evidenced by the USPTO date stamped return receipt postcard indicating receipt of the reply at the USPTO on January 16, 2004. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed September 10, 2003 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for entry, processing and consideration of the reply originally filed January 16, 2004.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Dennis R. Daley
Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

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ALEXANDRIA, VA 22314

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MAR 25 2009

OFFICE OF PETITIONS

In re Patent No. 6,835,722
Issue Date: December 28, 2004
Application No. 10/111,270
Filed: April 19, 2002
Patentee(s): Sung An Kang, et. al.

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed on February 18, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of William E. Beaumont 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.

Additionally, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

A courtesy copy of this decision is being mailed to the address given in the petition. However, if petitioner desires to receive future correspondence regarding maintenance

fees for the above patent, the appropriate power of attorney or authorization of agent and a "Fee Address Indication" and/or "Request for Customer Number" forms must be submitted (*See USPTO forms PTO/SB/47 and PTO/SB/125*).

This patented file is being forwarded to Files Repository.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: William E. Beaumont
112 S. West Street
Alexandria, VA 22314

17 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Edwin V. Merkel
Nixon Peabody
Clinton Square
PO Box 31051
Rochester, NY 14603-1051

In re Application of	
CALUM CLIFFORD	
Application No.: 10/111,309	DECISION ON REQUEST
PCT No.: PCT/GB00/04728	
Int. Filing Date: 11 December 2000	
Priority Date: 11 December 1999	UNDER 37 CFR 1.497(d)
Attorney Docket No.: 2253/120	
For: IMPROVED BURNER PLAQUE	

This is in response to applicants' "Petition For Correction of Inventorship in Application Under 37 CFR 1.48(a)" filed in the United States Patent and Trademark Office (USPTO) on 30 July 2002, treated as a request under 37 C.F.R. 1.497(d) seeking to add Edward Hart and Graham Wood as an inventors in the above referenced application.

BACKGROUND

On 01 July 2002, a Notification of Missing Requirements was mailed to applicants, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and either 37 CFR 1.66 or 1.68 was required.

On 30 July 2002, in response to the Notification of Missing Requirements, applicants filed an executed declarations, identifying PCT/GB00/04728. The declaration identified Callum Clifford, Edward Hart and Graham Wood as inventive entities and was executed by all three; however, Messrs. Hart and Wood were not named in the published international application. The response was accompanied by the instant petition, petition fee, and the statements of Messrs. Hart and Wood, the added inventors, indicating that any error in inventorship in the international application occurred without deceptive intent. The written consent of the assignee was also submitted to comply with 37 CFR 1.497.

DISCUSSION

37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)).

37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

> (1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in § 1.17(I); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Applicants included statements by Edward Hart and Graham Wood, each stating he is an inventor of the above referenced application although not named when the application was filed. Both Mr. Hart and Mr. Wood further state that they were "erroneously omitted as an inventor" and that "this error arose without deceptive intent" on his part. Each statement is signed respectively by Mr. Hart and Mr. Wood and satisfies item (1) of 37 CFR 1.497(d).

The processing fee of $130.00 has been paid. Item (2) above is also satisfied.

Applicants also included a "Consent of Assignee Bray Burners Limited signed by Mr. Alan Shearer, who states that inventors Clifford, Hart and Wood have assigned their entire right, title and interest in the above identified application to Bray Burners Limited and that the assignee "hereby assents to the correction of inventorship". Mr. Shearer states that he has the authority to act on behalf of Bray Burners Limited. This document satisfies item (3) above.

Accordingly, applicants have met all of the requirements to add Mr. Hart and Mr. Wood as co-inventors in the above-identified international application.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Edward Hart and Graham Wood as co-inventors is hereby **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **30 July 2002.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK:cmk
Telephone: (703) 306-5467
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Edwin V Merkel
Nixon Peabody
Clinton Square
PO Box 31051
Rochester NY 14603

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JUN 25 2007

OFFICE OF PETITIONS

Patent No. 7,063,527	:	
Issue Date: June 20, 2006	:	DECISION ON REQUEST FOR
Application No. 10/111,309	:	RECONSIDERATION OF
Filed: July 30, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 2253/120	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed August 1, 2006. Patentee requests that the patent term adjustment indicated in the patent be corrected from eight-four (84) days to six hundred seventy-eight (678) days.

The request for reconsideration of patent term adjustment is GRANTED-IN-PART.

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 six hundred seventy-seven (677) days.

On June 20, 2006, the application matured into U.S. Patent No. 7,063,527 with a revised patent term adjustment of 84 days. On August 1, 2006, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 678 days. Patentee disputes the reduction of 120

days for the filing of an amendment after allowance pursuant to Rule §1.312 on May 10, 2004. In effect, patentee asserts that the filing of this amendment was not an amendment pursuant to Rule §1.312, as this was merely the re-submission of a previously filed amendment.

The electronic record has been reviewed, and patentee appears to be correct regarding this amendment.

It is further noted that the record shows 120 days of applicant delay due to the filing of drawings on May 10, 2005, however it does not appear that drawings were submitted on this date.

- The application was filed on July 30, 2002, and a first Office action was not mailed until October 30, 2003. Since this exceeds 14 months from the actual filing date of the application, this constitutes 30 days of Office delay.
- The Notice of Allowance and Issue Fee Due was mailed on February 9, 2004, and the Issue Fee was not received until May 10, 2004. Since this exceeds 3 months from the mailing date of the Notice of Allowance and Issue Fee Due, this constitutes 1 day of Applicant delay.
- The issue fee was received on May 10, 2004 (not May 10, 2005), and the patent issued on June 20, 2006. Since this exceeds 4 months from the payment of the issue fee, this constitutes 648[1] days of Office delay (patentee has incorrectly calculated this period of time to be 649 days).

It is noted that the instant patent issued 3 years and 335 days after its filing date. 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). Given the correction noted above, in this instance,

[1] Not 283 days. The Office incorrectly entered 283 days of Office delay based on the Issue Fee payment being received May 10, 2005.

the period of delay of 325 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 678 days attributable to grounds specified in § 1.702(a)(1) and (4). Thus, no additional period of adjustment beyond the 678 days is being entered. The previous entry of a period of adjustment of 12 days for the Office taking in excess of three years to issue the patent has been removed.

As such, the total PTA equals 648 plus 30 minus 1, which equals **677** days.

In view thereof, the patent should have issued with a patent term adjustment of six hundred and seventy-seven (677) days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by SIX HUNDRED AND SEVENTY-SEVEN (677) days.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,063,527 B2

DATED : June 20, 2006

INVENTOR(S) : Callum et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (84) days

Delete the phrase "by 84" and insert – by 677 days--

25 MAR 2003

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG & THOMPSON
745 S. 23RD STREET
ARLINGTON, VA 22202

In re Application of	:	
OLDFIELD	:	
Application No.: 10/111,319	:	DECISION ON
PCT No.: PCT/GB99/04414	:	
Int. Filing Date: 23 December 1999	:	PETITION UNDER
Priority Date: None	:	
Attorney Docket No.: 3005-1003	:	37 CFR 1.137(b)
For: MICROSCOPE, A METHOD FOR MANUFACTURING A MICROSCOPE AND A METHOD FOR OPERATING A MICROSCOPE	:	

This decision is in response to applicant's "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 CFR 1.137(b)" filed 24 April 2002.

BACKGROUND

On 23 December 1999, applicant filed international application PCT/GB99/04414, which did not claim priority to an earlier application. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 05 July 2001. The twenty-month period for paying the basic national fee in the United States expired at midnight on 23 July 2001.

On 24 April 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, a declaration of the inventor, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than twenty months from the priority date; and the "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 CFR 1.137(b)"

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the

reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee for a small entity on 24 April 2002.

As to item (2), applicant submitted the petition fee for a small entity on 24 April 2002.

With regard to item (3), petitioner has provided the required statement.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration filed 24 April 2002 complies with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including according the application a 35 U.S.C. 371(c) date of **24 April 2002**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

13 JUL 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dickstein Shapiro Morin & Oshinsky LLP
1177 Avenue of the Americas
New York, NY 10036-2714

In re Application of CYM et al	:	
U.S. Application No.: 10/111,328	:	
PCT Application No.: PCT/KR01/01426	:	
Int. Filing Date: 23 August 2001	:	DECISION
Priority Date Claimed: 23 August 2000	:	
Attorney Docket No.: P1620.0001/0US0	:	
For: HEALTHY UNDERPANTS FOR MAN	:	

This is in response to applicant's "Request to Withdraw Notification of Abandonment" filed 03 October 2003, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 23 August 2001, applicant filed international application PCT/KR01/01426, which claimed priority of an earlier Korea application filed 23 August 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 28 February 2002. The thirty-month period for paying the basic national fee in the United States expired on 23 February 2003.

On 23 April 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 25 July 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 08 August 2002, applicant purportedly filed an executed declaration.

On 29 September 2003, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 03 October 2003, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 08 August 2002. Specifically, the copy of the return postcard, which includes the declaration in its itemized contents and which bears a USPTO date stamp of 08 August 2002, serves as *prima facie* evidence that the declaration was received by the USPTO on 08 August 2002.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 23 August 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 08 August 2002.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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JAN 25 2005

OFFICE OF PETITIONS

Oliff & Berridge
PO Box 19928
Alexandria, VA 22320

In re Application of :
Wada, et al. :
Application No. 10/111,357 : ON PETITION
Filed: April 24, 2002 :
Attorney Docket No. 112668

This is a decision on the petition under 37 CFR 1.181 filed on November 19, 2004, titled "Petition under 37 CFR 1.181(a) and Request for Refund to Deposit Account."

The petition is **DISMISSED**.

The record reflects that a final Office action was mailed on April 18, 2004, allowing a shortened statutory period for reply of three months from its mailing date. On July 8, 2004, an amendment after final Office action was filed. On October 28, 2004, an Advisory Action was issued explaining that the amendment of July 8, 2004, did not place the application in condition for allowance. The record further reflects that a Notice of Appeal was filed on October 8, 2004, and that a Request for Continued Examination (RCE) was filed on November 19, 2004.

Petitioner maintains that the filing of the Notice of Appeal and payment of the fee was necessitated by the alleged inordinate delay in the processing of the amendment after final. Petitioner indicates that this delay in issuing the Advisory Action does not comply with the Office policy stated in the *Manual of Patent Examining Procedure (MPEP)*. Petitioner requests that the fee for the Notice of Appeal be refunded because the Notice of Appeal would not have been filed if the Advisory Action had been promptly issued.

It is first noted that the amendment after final was not filed within two months of mailing date of the final Office action, therefore, adjustments that may have been available pursuant to *MPEP* 710.01 are not available in this instance. Further, while the Office encourages the examiner to issue the Advisory Action promptly, circumstances may arise that prevent the most expeditious processing of the amendment. The failure of the examiner to meet the ideal processing goal does not excuse the applicant from taking other measures to avoid the abandonment of the application should the examiner determine that the amendment filed does not place the application in condition for allowance. Certainly, the applicant could have filed a Notice of Appeal with the amendment after final with the instruction that the Notice of Appeal or Request for Continued Examination, alternatively, should only be processed in the event that the amendment after final is not entered. Petitioner assumed a calculated risk in filing the Notice of Appeal without the benefit of knowing the outcome of the amendment after final. Petitioner's arguments do not support imputing

consequence of the unfavorable outcome of the risk assumed by petitioner to the Patent and Trademark Office.

Further, 37 CFR 1.26 states, in pertinent part, that "[t]he Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including . . . an appeal . . . will not entitle a party to a refund of such fee." There is no evidence of a mistake in the payment of the notice of appeal fee. While petitioner may no longer wish to pursue an appeal, this change in purpose—no matter the reason for the change—does not justify a refund in this case.

The petition is therefore, dismissed and fee charged for the Notice of Appeal will not be refunded.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

#9
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 15 2004

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 15 2004

OFFICE OF THE DIRECTOR
TC 3600

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke St.
Alexandria, VA 22314

In re Application of
Daisuke Inoue et al
Serial No: 10/111,379
Filed: April 24, 2002
For: CONTROLLER FOR DRIVING SYSTEM OF VEHICLE

: DECISION ON PETITION
: UNDER
: 37 CFR 1.181(a)(3)
:
:

This is a decision on the petition under 37 CFR 1.181(a)(3) filed May 6, 2004, to have the examiner notify applicant of consideration of the references cited in the International Search Report filed April 24, 2002.

The petition is GRANTED.

The examiner will consider the references cited in the International Search report filed April 24, 2002 and properly notify applicant of such consideration.

Robert Oberleitner, Director
Patent Technology Center 3600
(703) 308-1134

pp:cm:9/30/04

SM

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

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SEP 21 2005

OFFICE OF PETITIONS

In re Application of :
Daisuke Inoue, et al. :
Application No. 10/111,379 : ON PETITION
Filed: April 24, 2002 :
Attorney Docket No.: 221997US3PCT :
:

This is a decision on the petition, filed September 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 June 29, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3681 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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WESTERMAN, HATTORI, DANIELS & ADRIAN
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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NOV 23 2004

OFFICE OF PETITIONS

In re Application of	:	
Yoshiharu Doi et al	:	
Application No. 10/111,414	:	ON PETITION
Filed: May 6, 2002	:	
Attorney Docket No. 020601	:	

This is a decision on the petition, filed November 12, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 2682 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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SUITE 700
WASHINGTON DC 20036

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JAN 17 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yoshiharu Doi et al :
Application No. 10/111,414 :
Filed: May 6, 2002 :
Attorney Docket No. 020601 :

This is a decision on the petition, filed January 10, 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 9, 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 2682 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 30, 2006

cecilia J. Tsang

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/111,427 Patent No.: 7037896

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

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

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

Antonio Johnson

Certificates of Correction Branch

703-308-9390 ext. 111

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Cecilia Tsang

SPE

1654

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/10/2006

TO SPE OF : ART UNIT 1600 (1652)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,998,258

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** - Tel. No. 305-8309

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

***Ok to enter changes to claims as req. in COCIN in Madras?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

CHARLES L. PATTERSON, JR.
PRIMARY EXAMINER
GROUP 1600

SPE **Art Unit** AU 1652

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

#6

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01 AUG 2003

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of :
BERTOLA et al. :
U.S. Application No.: 10/111,452 : DECISION ON PETITION
PCT No.: PCT/EP00/10509 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 25 October 2000 :
Priority Date: 27 October 1999 :
Attorney Docket No.: 4509 :
For: PROCESS FOR THE PRODUCTION OF :
N-METHYL PYRROLIDONE USING
GAMMA BUTYROLACTONE AND
MIXED. . . .

This is a decision on applicants' "PETITION UNDER 37 CFR 1.47(a)" filed 10 February 2003 to accept the application without the signature of joint-inventors, Salvatore Cassarino and Aldo Bertola. The required petition fee of $130.00 (37 CFR 1.17(h)) has been submitted.

BACKGROUND

On 25 October 2000, applicants filed international application PCT/EP00/10509 which claimed a priority date of 03 May 2000 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 May 2001. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e., 27 April 2002.

On 25 April 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 08 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b).

On 10 February 2003, applicants filed a Petition under 37 CFR 1.47(a) and a petition for a three-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and(4) have been satisfied.

Regarding item (2) above, petitioner states that Salvatore Cassarino and Aldo Bertola have refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of 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.

A review of the present petition reveals that petitioner has not shown that a bona fide attempt was made to present the application papers (specification, claims, and drawings) to Aldo Bertola and Salvatore Cassarino. Maurizio Sarpi states in his declaration that a new application and assignment was sent to Aldo Bertola and Salvatore Cassarino for signature, however, the declarant fails to state whether a complete copy of the application papers (specification, claims, and drawings) were sent to the nonsigning inventors. Further

clarification is needed on what papers were sent to the non-signing inventors. Additionally, Mr. Sarpi states that Mr. Bartola has refused to execute the application, however, the declaration states that "he (Mr. Bertola) would sign the application and assignment after signature of Mr. Cassarino." Mr.Bertola's statement does not indicate a refusal to sign the application papers, but rather a willingness to sign the papers pending the signature of Mr. Cassarino.

As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers was sent to Aldo Bertola and Salvatore Cassarino, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Salvatore Cassarino and Aldo Bertola under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

3 FEB 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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1940 Duke Street
Alexandria, VA 22314

In re Application of :
BERTOLA et al. :
U.S. Application No.: 10/111,452 : DECISION ON PETITION
PCT No.: PCT/EP00/10509 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 25 October 2000 :
Priority Date: 27 October 1999 :
Attorney Docket No.: 4509 :
For: PROCESS FOR THE PRODUCTION OF :
N-METHYL PYRROLIDONE USING
GAMMA BUTYROLACTONE AND
MIXED. . . .

This is a decision on applicants' "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 03 November 2003 to accept the application without the signature of joint-inventors, Salvatore Cassarino and Aldo Bertola.

BACKGROUND

On 25 October 2000, applicants filed international application PCT/EP00/10509 which claimed a priority date of 03 May 2000 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 May 2001. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e., 27 April 2002.

On 25 April 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 08 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b).

On 10 February 2003, applicants filed a Petition under 37 CFR 1.47(a) and a petition for a three-month extension of time. The petition was dismissed in a Decision dated 01 August 2003.

On 03 November 2003, applicants filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and(4) have been satisfied.

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Salvatore Cassarino and Aldo Bertola. The steps taken by Maurizio Sarpi are sufficient to show that Salvatore Cassarino and Aldo Bertola have refused to execute the application.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

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

The application will be given an international filing date of 25 October 2000 under 35 U.S.C. 363, and a date of **10 February 2003** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

3 FEB 2004

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Aldo Bertola
Va Luigi Illica
23-00186
Milan, Italy

In re Application of
BERTOLA et al.
U.S. Application No.: 10/111,452
PCT No.: PCT/EP00/10509
Int. Filing Date: 25 October 2000
Priority Date: 27 October 1999
Attorney Docket No.: 4509
For: PROCESS FOR THE PRODUCTION OF N-METHYL PYRROLIDONE USING GAMMA BUTYROLACTONE AND MIXED. . . .

Dear Mr. Bertola:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.497.

Anthony Smith
Attorney-Advisor
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Tel.: 703-308-6314
Fax: 703-308-6459

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
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3 FEB 2004
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Salvatore Cassarino
Via Beato Angelico
23-00186
Rome, Italy

In re Application of
BERTOLA et al.
U.S. Application No.: 10/111,452
PCT No.: PCT/EP00/10509
Int. Filing Date: 25 October 2000
Priority Date: 27 October 1999
Attorney Docket No.: 4509
For: PROCESS FOR THE PRODUCTION OF N-METHYL PYRROLIDONE USING GAMMA BUTYROLACTONE AND MIXED. . . .

Dear Mr.Cassarino:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.497.

Anthony Smith
Attorney-Advisor
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Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
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3 FEB 2004

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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an national stage application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventors. The inventors whose signatures are missing (Salvatore Cassarino and Aldo Bertola) may join in the application by promptly filing an appropriate oath or Declaration complying with 37 CFR 1.497. The international application number is PCT/EP00/10509 and was filed on 25 October 2000 in the name of Salvatore Cassarino; Aldo Bertola; and Philippe Raucq for the invention entitled PROCESS FOR THE PRODUCTION OF N-METHYL PYRROLIDONE USING GAMMA BUTYROLACTONE AND MIXED METHYLAMINES AS STARTING MATERIALS. The national stage application number is 10/111,452 and has a 35 U.S.C. 371 date of 10 February 2003.

3 FEB 2004
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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an national stage application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventors. The inventors whose signatures are missing (Salvatore Cassarino and Aldo Bertola) may join in the application by promptly filing an appropriate oath or Declaration complying with 37 CFR 1.497. The international application number is PCT/EP00/10509 and was filed on 25 October 2000 in the name of Salvatore Cassarino; Aldo Bertola; and Philippe Raucq for the invention entitled PROCESS FOR THE PRODUCTION OF N-METHYL PYRROLIDONE USING GAMMA BUTYROLACTONE AND MIXED METHYLAMINES AS STARTING MATERIALS. The national stage application number is 10/111,452 and has a 35 U.S.C. 371 date of 10 February 2003.

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Paper No.

Ladas & Parry
26 West 61st Street
New York, NY 10023

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JUN 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Young Gil Yang :
Application No. 10/111,466 : ON PETITION
Filed: April 23, 2002 :
Attorney Docket No. U 013987-5 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 15, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

The application file is being forwarded to Technology Center 3600 for further processing.

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

23 SEP 2004

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United States Patent and Trademark Office
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT
1940 Duke Street
Alexandria, VA 22314

In re Application of:	
BERTOLA, Aldo, et al.	DECISION ON PETITION UNDER
U.S. Application No.: 10/111,474	37 CFR 1.47(a)
PCT No.: PCT/EP00/10511	
International Filing Date: 25 October 2000	
Priority Date: 27 October 1999	
Attorney's Docket No.: 4468	
For: CONTINUOUS PROCESS FOR CONVERTING POLYTETRA-METHYLENE ETHER DIESTER TO POLYTETRAMETHYLENE ETHER GLYCOL	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a)" filed 10 February 2003. Applicants have paid the required petition fee.

BACKGROUND

On 25 October 2000, applicants filed international application PCT/EP00/10511 which claimed a priority date of 27 October 1999 and which designated the United States. On 25 October 2000, a copy of the international application was communicated to the United States Patent And Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 27 April 2002.

On 25 April 2002, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 08 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed declaration acceptable under 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 10 February 2003, applicants filed a response to the Notification Of Missing Requirements. The response included payment of the required surcharge, a declaration executed by one of the three inventors, and the petition considered herein. The petition seeks acceptance of the application without the signature of the two nonsigning inventors, whom applicants assert have refused to join in the application. It is noted that a two-month extension of time is required to render this response timely and thereby avoid abandonment of the application. Based on the

authorization included in the 10 February 2003 submission, Deposit Account No. 15-0030 will now be charged the required extension fee.

On 01 May 2003, the DO/EO/US mailed a Notification Of Acceptance (Form PCT/DO/EO/903) identifying 10 February 2003 as the date of receipt of the 35 U.S.C. 371(c) requirements.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the nonsigning inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the nonsigning inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have submitted the petition fee. Accordingly, item (1) is satisfied.

The petition expressly states the last known addresses of the nonsigning inventors. Item (2) is therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> 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 joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by one of the named inventors and containing unsigned signature blocks for the two nonsigning inventors. This declaration can be accepted as having been signed by the inventor on his/her own behalf and on behalf of the nonsigning inventors. Item (3) is therefore satisfied.

Regarding item (4), the petition asserts that the nonsigning inventors have refused to execute the application. In such cases, section 409.03(d) of the MPEP requires that the inventor be provided with a copy of the complete application papers, including specification, drawings and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." Applicants here have provided a firsthand demonstrating that the nonsigning inventors have been provided with copies of the complete application and have refused to provide an executed declaration. The submitted materials are accepted as demonstrating the nonsigning inventors' refusal to execute the application. Item (4) is therefore satisfied.

Based on the above, applicants here have satisfied all the requirements for a grantable petition.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) for acceptance of the application without the signatures of nonsigning inventors Salvatore CASSARINO and Aldo BERTOLA is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventors at the last known addresses set forth in the petition materials, and notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
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Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Aldo BERTOLA
Via Luigi Illica
5-20121 Milan
ITALY

In re Application of: BERTOLA, Aldo, et al.
U.S. Application No.: 10/111,474
PCT No.: PCT/EP00/10511
International Filing Date: 25 October 2000
Priority Date: 27 October 1999
Attorney's Docket No.: 4468
For: CONTINUOUS PROCESS FOR CONVERTING POLYTETRAMETHYLENE ETHER DIESTER TO POLYTETRAMETHYLENE ETHER GLYCOL

Dear Mr. BERTOLA:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join 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.

Richard M. Ross
Attorney Advisor
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

Counsel Of Record:
Harris A Pitlick
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT
1940 Duke Street
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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Salvatore CASSARINO
Via Beato Angelico
23-00186 Rome
ITALY

In re Application of: BERTOLA, Aldo, et al.
U.S. Application No.: 10/111,474
PCT No.: PCT/EP00/10511
International Filing Date: 25 October 2000
Priority Date: 27 October 1999
Attorney's Docket No.: 4468
For: CONTINUOUS PROCESS FOR CONVERTING POLYTETRAMETHYLENE ETHER DIESTER TO POLYTETRAMETHYLENE ETHER GLYCOL

Dear Mr. CASSARINO:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join 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.

Richard M. Ross
Attorney Advisor
PCT Legal Office
Telephone: (703) 308-6155
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Counsel Of Record:
Harris A Pitlick
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT
1940 Duke Street
Alexandria, VA 22314

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PITNEY HARDIN LLP
7 TIMES SQUARE
NEW YORK NY 10036-7311

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OFFICE OF PETITIONS

In re Application of
Yamagishi et al.
Application No. 10/111,578
Filed: April 26, 2002
Attorney Docket No. 2551-89

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 18, 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 February 10, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 11, 2004.

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

This file is being forwarded 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

12 AUG 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AnteVista Gubh
Harburger Schlosstrasse 6-12
D-21073 Hamburg
Germany

In re Application of	:	
Jean-Paul Theis	:	
Application No.: 10/111,591	:	DECISION ON
PCT No.: PCT/EP01/08169	:	
Int. Filing Date: 13 July 2001	:	PETITION UNDER
Priority Date: 21 July 2000	:	
Attorney's Docket No.: NA	:	37 CFR 1.137(b)
For: A Microprocessor having an instruction format containing timing information	:	

This is in response to the "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed on 26 April 2002.

BACKGROUND

On 13 July 2001, this international application was filed, claiming an earliest priority date of 21 July 2000. A copy of the intentional application was transmitted on 31 January 2002 to the USPTO from the International Bureau

No Demand electing the United States was filed in this international application Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.494 was 21 February 2002. This international application became abandoned with respect to the United States at midnight on 21 February 2002 for failure to pay the basic national fee.

On 26 April 2002, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, and a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee. No declaration or oath was submitted at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition

pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR 1.137(b).

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371 date of this application is **26 April 2002**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

#10
DW

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OFFICE OF THE DIRECTOR
TC 3600

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of
Junichi Nakamura
Application No. 10/111,593
Filed: July 25, 2002
For: DYNAMIC PRESSURE TYPE FLUID BEARING DEVICE AND METHOD OF MANUFACTURING THE FLUID BEARING DEVICE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on February 23, 2004.

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

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____.
and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response filed August 6, 2003 has been found and matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response and then to the examiner for prompt action.

SNM/mjz: 5/13/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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

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FROM DIRECTORS OFFICE

OCT 19 2004

TECHNOLOGY CENTER 3600

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

In re application of
Sarit Pomerantz et al.
Application No. 10/111,601 : DECISION ON REQUEST
Filed: June 24, 2002 : FOR WITHDRAWAL OF
For: ASYNCHRONOUS ITEM TRANSFER FACILITY, SYSTEM AND METHOD : ATTORNEY

This is a decision on the request filed on August 06, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the requests lacks conditions A) and B) above.

As to Condition A), the request to withdraw as attorney in the above-identified application is not approved because the attorney making the request; Larry S. Nixon does not now have, and apparently never has had; power of attorney in this application.

As to condition B), the reason given is not acceptable because there is no record in the file of assignment. Therefore, instructions from an assignee can not be accepted as a valid reason.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 10/15/04

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Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of KIRINO et al	:	
U.S. Application No.: 10/111,608	:	
Int. Application No.: PCT/JP00/07622	:	COMMUNICATION
Int. Filing Date: 30 October 2000	:	
Priority Date: 29 October 1999	:	
Attorney Docket No.: 112684	:	
For: MAGNETIC RECORDING MEDIUM, METHOD FOR PRODUCING THE SAME, AND MAGNETIC RECORDER	:	

This is in response to applicant's "Petition Under 37 C.F.R. §1.182 for Change of Name of Inventor" filed 14 November 2002.

BACKGROUND

On 30 October 2000, applicant filed international application PCT/JP00/07622, which claimed priority of an earlier Japan application filed 29 October 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 03 May 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 09 March 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 29 April 2002.

On 26 April 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1), and executed declaration, and a notification of name change.

On 10 July 2002, this Office mailed a communication which indicated that a proper petition under 37 CFR 1.182 is required to effect a name change.

On 10 September 2002, applicant filed a response including a declaration executed by Harumi Sakamoto.

On 24 September 2002, this Office mailed a communication which indicated that a proper petition under 37 CFR 1.182 is required to effect a name change.

On 14 November 2002, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The fifth inventor's name is listed as "Harumi Sakamoto" in both international application PCT/JP00/07622 and the declaration filed 10 September 2002. However, the fifth inventor's name on the declaration filed 26 April 2002 is listed as "Harumi Hieida".

MPEP 605.04(c) states in relevant part,

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Applicant has filed a petition under 37 CFR 1.182 along with the required fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected.

The papers have been reviewed, and the declaration filed 26 April 2002 and executed by Harumi Hieida is accepted.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

The application has an international filing date of 30 October 2000 under 35 U.S.C. 363 and a date of 26 April 2002 under 35 U.S.C. 371(c).

The application will be forwarded to the DO/EO/US for processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

OCT 25 2002

#5

Boyle, Fredrickson, Newholm,
Stein & Gratz, S.C.
250 Plaza Building, Suite 1030
250 East Wisconsin Ave.
Milwaukee, WI 53202

In re Application of	:	
Scott E. Jordan	:	
Serial No.: 10/111,618	:	DECISION ON PETITION
Filed: April 25, 2002	:	
For: Person Assistant Garment	:	

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

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

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

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

John E. Kittle
Director
Technology Center 3700/2900

19 NOV 2004

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ALEXANDRIA, VA 22313-1450
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McIntyre-Lilley Intellectual Property Services
2000 South 2nd Street, Suite #12
Arlington, VA 22204

In re Application of :
SUGAWARA, Yoshitaka :
U.S. Application No.: 10/111,625 :
PCT No.: PCT/JP00/07444 :
Int. Filing Date: 24 October 2000 :
Priority Date: 27 October 1999 :
Attorney Docket No.: WC-02-03-01.00 :
For: SEMICONDUCTOR DEVICE :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. 1.137(b)" filed on 20 October 2004 is hereby **GRANTED** as follows:

The basic national fee, surcharge fee and petition fee of $1,370.00 have been paid. Applicant's state that "[t]he entire delay in commencing U.S. national stage processing between the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 24 October 2000, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 20 October 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALFRED H. MURATORI
MICROCOATING TECHNOLOGIES, INC.
5315 PEACHTREE INDUSTRIAL BLVD.
ATLANTA, GA 30341-2107

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Subramaniam Shanmugham, et. al. :
Application No. 10/111,684 : ON PETITION
Filed: April 26, 2002 :
Attorney Docket No. 0032-PO-US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 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 November 20, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight February 20, 2004.

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 1762 for review of the amendment filed with the instant petition.

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

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

25 NOV 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Robert W. Becker
Robert W. Becker & Associates
707 Highway 66 East, Suite B
Tijeras, NM 87059

In re Application of :
TILLMANN, et al. : DECISION ON PETITION
U.S. Application No.: 10/111,737 :
PCT No.: PCT/EP00/10290 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 19 October 2000 :
Priority Date: 28 October 1999 :
Attorney Docket No.: AZ.3143 :
For: METHOD AND APPARATUS FOR THE :
THERMAL TREATMENT OF SUBSTRATES :

This decision is in response to applicant's "Letter and Petition For Filing by Assignee Pursuant to 37 CFR 1.47(a) " filed 17 September 2002 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 19 October 2000, applicants filed international application PCT/EP00/10290, which claimed priority of an earlier application filed 28 October 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 April 2002.

On 26 April 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; an Information Disclosure Statement and a First Preliminary Amendment.

On 17 July 2002, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date and providing a surcharge of $130.00 for providing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. (37 CFR 1.492(e)). Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 17 September 2002, applicants responded with the present petition to accept the present oath or declaration without the signature of co-inventor Uwe Kreiser accompanied by a combined declaration and power of attorney executed by co-inventor Andreas Tillmann.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As to Item (1), applicants have authorized charging of the petition fee under 37 CFR 1.17(h) to Deposit Account No.: 02-1653.

Regarding Item (3), applicants have provided the last known address of Mr. Kreiser.

As to Item (4), accompanying the petition is a declaration signed by the remaining inventors on their behalf, and on behalf of the non-signing inventor. Accordingly, Items (1), (3) and (4) have been satisfied.

As to Item (2), the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal states that, "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." The declaration of Dr. Rapp states that Kreiser "was provided with a complete application papers on May 7, 2002... but did not sign and return the provided declaration." However, it is not clear how the papers were delivered to Mr. Kreiser and whether he expressly refused to execute the declaration or whether no response at all has been received. Did Dr. Rapp personally deliver the application papers to Mr. Kreiser or is he merely avowing to the fact that the papers were sent? In order to satisfy this element applicants must provide evidence from an individual with first-hand knowledge of the manner in which the papers were presented to Mr. Kreiser, namely, how they were sent and the nature of his refusal to accept and/or execute the declaration. In addition, it is necessary to provide copies of the receipts of mailing be it certified mail receipts or Express Mail receipts which show Mr. Kreiser's address and dates of attempted delivery.

In light of the above, applicants' petition can not be granted at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.47(a) is **DISMISSED, without prejudice**.

Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file either 1) an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) signed by all inventors or 2) a renewed petition satisfying all requirements under 37 CFR 1.47(a). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

Leonard Smith
Legal Examiner
PCT Legal Office

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

31 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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Robert W. Becker
Robert W. Becker & Associates
707 Highway 66 East, Suite B
Tijeras, NM 87059

In re Application of	:	
TILLMANN, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/111,737	:	
PCT No.: PCT/EP00/10290	:	PETITION UNDER
Int. Filing Date: 19 October 2000	:	
Priority Date: 28 October 1999	:	37 CFR 1.47(a)
Attorney Docket No.: AZ.3143	:	
For: METHOD AND APPARATUS FOR THE THERMAL TREATMENT OF SUBSTRATES	:	

This decision is in response to applicant's "Response to Decision on Petition Dated 25 Nov 2002 " filed 29 January 2003 in the United States Patent and Trademark Office (USPTO). The response is being treated as a renewed petition under 37 CFR 1.47(a).

BACKGROUND

On 25 November 2002, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration.

On 29 January 2003, applicant filed the present renewed petition accompanied by a declaration executed by Mr. Thomas Theiler detailing efforts to obtain the signature of the non-signing inventor, Uwe Kreiser. Applicant has certified that the papers were deposited for mailing on 23 January 2003 and thus are considered timely filed.

DISCUSSION

As detailed in the decision mailed 25 November 2002, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items (1), (3) and (4).

As to item (2), applicant's previous petition was dismissed as it was not clear how the papers were delivered to Mr. Kreiser and whether he expressly refused to execute the declaration

or whether no response at all had been received. Applicant has presently filed a declaration from Mr. Thomas Theiler avowing to the fact that he had first-hand knowledge that the non-signing inventor was mailed a complete set of the application papers and that Mr. Kreiser has not responded. Applicant has thus satisfied this item.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application will be given an international application filing date of 19 October 2000 and a date of **17 September 2002** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision, namely, the mailing of a NOTIFICATION OF ACCEPTANCE UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903).

Leonard Smith
Legal Examiner
PCT Legal Office

Derek A. Putonen
Attorney Advisor
PCT Legal Office
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31 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mr. Uwe Kreiser
Hasenbuhlweg 42
D-89081 Ulm
Germany

In re Application of
TILLMANN, et al.
U.S. Application No.: 10/111,737
PCT No.: PCT/EP00/10290
Int. Filing Date: 19 October 2000
Priority Date: 28 October 1999
Attorney Docket No.: AZ.3143
For: METHOD AND APPARATUS FOR THE THERMAL TREATMENT OF SUBSTRATES

Dear Mr. Kreiser:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

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

Leonard Smith
Legal Examiner
PCT Legal Office

Derek A. Putonen
Attorney Advisor
PCT Legal Office

Robert W. Becker
Robert W. Becker & Associates
707 Highway 66 East, Suite B
Tijeras, NM USA 87059

#3

John P. DeLuca
Dykema Gossett PLLC
Third Floor West, Franklin Square
1300 I Street N W
Washington. DC 20005-3306

In re Application of	
RUSSELL COWBURN	
Serial No.: 10/111,803	
PCT No.: PCT/GB00/03915	DECISION ON PETITION
Int. Filing Date: 11 October 2000	
Priority Date: 25 October 1999	UNDER 37 CFR 1.137(b)
Attorney's Docket No.: 66347-069-2	
For: MAGNETIC LOGIC ELEMENTS	

The petition to revive under 37 CFR 1.137(b) filed 29 April 2002 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of $890 has been paid. The required petition fee of $1280 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventor is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

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OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

In re Patent No. 6,624,758 :
Issue Date: June 27, 2006 :
Application No. 10/111,827 : ON PETITION
Filed: April 25, 2002 :
Attorney Docket No. 2003946-0051 :

This is a decision on the petition filed June 23, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**. The $130 petition fee is being charged to counsel's deposit account as authorized.

While it is noted that the requirements of 37 CFR 3.81(b) were satisfied in the petition filed June 23, 2006, a decision on the petition was never rendered. However, on September 5, 2006, the Office issued the requested Certificate of Correction. Accordingly, the present petition is granted *nunc pro tunc*.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Paper No. 10

ROBERT M. ANGUS
WESTMAN CHAMPLIN & KELLY
INTERNATIONAL CENTER SUITE 1600
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

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MAR 17 2004

OFFICE OF PETITIONS

In re Application of :
Siohan et al. :
Application No. 10/111,833 :
Filed: July 23, 2002 : ON PETITION
Attorney Docket No.: :
F40.12-0008 :

This is a decision on the petition under 37 CFR 1.137(a), filed February 2, 2004, to revive the above-identified application. The petition is properly treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed June 16, 2003. The Notice set a three (3) month period for reply. No reply having been received, the above-identified application became abandoned Spetmeber 17, 2003. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant's Assertion

Applicant asserts that a timely reply to the Office action, in the form of an Amendment, was filed and received in the Office. In support of this assertion, Applicant provides copies of the Amendment; Letter to Official Draftsman and four (4) sheets of drawings, a copy of a Petition for a two (2) month extension of time; a canceled check in the amount of $420.00 for the two (2) month extension of time; a copy of a return receipt postcard acknowledging receipt of the above items by this Office on November 17, 2003. In addition, each of the above mentioned

items of correspondence, save the return receipt postcard, includes a Certificate of Mailing to this Office on November 14, 2003.

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

Moreover, 37 CFR 1.8, provides that

> (1) Correspondence will be considered as being timely filed if:
>
> (i) The correspondence is mailed or transmitted prior to the expiration of the set period of time by being:
>
> (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage first class mail; or
>
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
>
> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

The petition fee has been refunded to deposit account No. 23-1123, as authorized in the instant petition.

The application file is being forwarded to Technology Center Art Unit 2819 for continued examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at 703-305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

18 DEC 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20231
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James A. Oliff
OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320

In re Application of	:
KOGE, Siro et al.	: DECISION ON
US Application No.: 10/111,848	:
PCT Application No.: PCT/JP01/07688	: PETITION
Int. Filing Date: 05 September 2001	:
Priority Date: 05 September 2000	: UNDER
Attorney's File Reference: 112460	:
For: PRINTED MATTER DISPATCHING SYSTEM, PRINTED MATTER DISPATCHING METHOD, PRINTED MATTER DISPATCHING SERVER REQUEST ACCEPTING SERVER, AND STORAGE MEDIUM	: 37 CFR 1.47(a)

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.47(A) AND STATEMENT OF FACTS", filed 28 August 2002, which requests acceptance of the application without the signature of co-inventor Yuuichi Sakae (Sakae). The $130.00 petition fee has been paid.

BACKGROUND

On 05 September 2001, applicants filed international application number PCT/JP01/07688, which claimed priority to a prior Japanese application filed on 05 September 2000. Accordingly, the thirty-month period for paying the basic national fee in the United States of America expires at midnight on 05 March 2003.

On 30 April 2002, applicants filed a transmittal letter requesting express entry into the national stage in the United States of America under 35 USC 371(f), which was accompanied by, inter alia, the basic national fee. No oath or declaration of the inventors was included.

On 01 July 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements which indicated, inter alia, that an oath or

declaration of inventorship and a surcharge under 37 CFR 1.492(e) for providing a late oath or declaration must be furnished by 32 months from the priority date.

On 28 August 2002, the applicants filed, inter alia, the following papers:

1) a petition under 37 CFR 1.47(a) stating the last known address of nonsigning co-inventor Sakae and the required $130.00 petition fee;

2) a declaration and power of attorney naming co-inventors Siro Koge (Koge) and Sakae and including the signature of co-inventor Koge beneath both the name of Koge and also beneath the name of nonsigning co-inventor Sakae;

3) a statement, signed by Tetsuo Hirose (Hirose), indicating that a declaration and power of attorney accompanied by a copy of the application papers were mailed to Sakae on 11 July 2002 along with a request that Sakae execute and return the declaration and power of attorney to Hirose by 31 July 2002 and also indicating that by 07 August 2002 Sakae had still not returned the executed declaration and power of attorney to Hirose;

4) copies of post office receipts indicating that correspondence was mailed from the Hirose Patent Office to Sakae on 11 July 2002 and delivered to Sakae on 12 July 2002;

5) a $65.00 surcharge for a late declaration under 37 CFR 1.492(e).

DISCUSSION

37 CFR 1.47(a) states:

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

The petition papers filed 28 August 2002 are acceptable under 37 CFR 1.47(a). Further, the declaration filed 28 August 2002 is acceptable under 37 CFR 1.497.

In addition, the 30-month deadline for entry into the US national stage under 37 CFR 1.495 does not expire until 05 March 2003. Thus, the statement in the Notification of Missing Requirements mailed 01 July 2002, indicating that the applicant owes a $65 surcharge for providing a late oath or declaration, is erroneous. Accordingly, the $65 fee paid by the applicant on 28 August 2002 for filing a late oath or declaration will be refunded.

CONCLUSION

The petition under 37 CFR 1.47(a) is GRANTED. The declaration filed 28 August 2002 is acceptable under 37 CFR 1.497.

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47 will be published in the Official Gazette.

The $65 fee paid 28 August 2002 for filing a late oath or declaration will be refunded to applicant's deposit account number 15-0461.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of this application, including according this application a 35 USC 371 (c) date of 28 August 2002.

Diana L. Oleksa
Special Programs Examiner
PCT Special Programs Office
Telephone Number: 703-308-0890
Facsimile: 703-305-2919

Leonard Smith
PCT Legal Examiner
PCT Legal Office

18 DEC 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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Yuuichi Sakae
904, 27-7 Narimasu 1-chome
Itabashi-ku, Tokyo 175-0094
Japan

In re Application of
KOGE, Siro et al.
US Application No.: 10/111,848
PCT Application No.: PCT/JP01/07688
Int. Filing Date: 05 September 2001
Priority Date: 05 September 2000
For: PRINTED MATTER DISPATCHING SYSTEM, PRINTED MATTER DISPATCHING METHOD, PRINTED MATTER DISPATCHING SERVER, REQUEST ACCEPTING SERVER, AND STORAGE MEDIUM

Dear Mr. Sakae

You are named as an inventor in the above-captioned United States national stage application filed under the provisions of 37 CFR 1.47(a) and 35 USC 116. Should a patent be grated, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at the 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 agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Diana L. Oleksa
Special Programs Examiner
PCT Special Programs Office
Telephone Number: 703-308-0890
Facsimile: 703-305-2919

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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Yuuichi Sakae) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/JP01/07688 and was filed on 05 September 2001 in the names of Siro Koge and Yuuichi Sakae for the invention entitled PRINTED MATTER DISPATCHING SYSTEM, PRINTED MATTER DISPATCHING METHOD, PRINTED MATTER DISPATCHING SERVER, REQUEST ACCEPTING SERVER, AND STORAGE MEDIUM. The national stage application number is 10/111,848 and has a 35 USC 371 date of 28 August 2002.

OIPE
FEB 0 3 2005
PATENT & TRADEMARK OFFICE

PATENT
Customer No. 22,852
Attorney Docket No. 08364.0044

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Sergei POLETAEV et al.	)	Group Art Unit: 1712
	)	
Application No.: 10/111,853	)	Examiner: Philip C. Tucker
	)	
Filed: April 24, 2003	)	
	)	
For: COMPOSITION AND PROCESS FOR OIL EXTRACTION	)	Confirmation No.: 8386

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700
FEB 18 2005

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

Sir:

PETITION TO MAKE SPECIAL

Applicants hereby petition under 37 CFR § 1.102(c) and M.P.E.P. § 708.02 (V) to make the above application special on the basis that the present invention materially contributes to development of energy resources. In accordance with M.P.E.P. § 708.02 (V), no fee is due. If any additional fee is required in connection with the filing of this Petition, please charge that fee to our Deposit Account No. 06-0916.

The present invention relates to compositions and methods useful in raising the productivity of oil wells; thus, the present invention materially contributes to development of energy resources. As further disclosed in the specification, the present invention relates to a composition and a method for modifying the properties of oil bearing rock stratum so as to increase the production of oil present in the oil-water mixture that is extracted from the oil well. Specification at p. 1. For example, an

12 FEB 2004

#6

UNITED STATES 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 OFFICE OF JAY R. YABLON
910 Northumberland Drive
Schenectady, New York 12309

In re Application of:	:	
HAMLEY, Robert, J.	:	
U.S. Application No.: 10/111,894	:	DECISION ON PETITION
PCT No.: PCT/US00/29472	:	
International Filing Date: 26 October 2000	:	
Priority Date: 27 October 1999	:	
Attorney's Docket No.: HAMLP004NAT	:	
For: FLORAL PRESERVATIVE AND AROMATHERAPY PRODUCT, APPARATUS, AND METHOD	:	

This decision is issued in response to applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed 06 January 2004. No petition fee is required.

BACKGROUND

On 26 October 2000, applicant filed international application PCT/US00/29472 which claimed a priority date of 27 October 2000 and which designated the United States. The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 27 April 2002.

On 23 April 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee.

On 28 June 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 22 December 2003, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the Notification Of Missing Requirements.

On 06 January 2004, applicant filed the petition considered herein. The petition asserts that on 15 August 2002, applicant filed via facsimile a timely response to the Notification Of Missing Requirements that included an executed declaration. Attached to the petition are copies of the materials purportedly filed on 15 August 2002, as well as a copy of counsel's facsimile log showing transmission of this submission on 15 August 2002.

DISCUSSION

Based on applicant's statements in the present petition, the attached materials and the "Certification Of Facsimile Transmission Under 37 CFR 1.8" contained thereon, and the copy of counsel's facsimile log confirming the transmission of these materials, for purposes of timeliness, the materials attached to the present petition (and specifically, the executed declaration), will be treated as having been filed on 15 August 2002. The submission was therefore a timely response to the Notification Of Missing Requirements mailed 28 June 2002 (it is noted that, for all purposes other than timeliness, the materials will be treated as having been filed on 06 January 2004, the date the petition was filed).

The Notification Of Abandonment mailed 22 December 2003, based as it was on applicant's purported failure to file a timely response to the Notification Of Missing Requirements, is appropriately vacated.

A review of the declaration attached to the petition confirms that the declaration is in compliance with 37 CFR 1.497.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**. The materials attached to the present petition, including the executed declaration, are considered (for timeliness considerations) to have been filed on 15 August 2002 as a timely response to the Notification Of Missing Requirements.

The Notification Of Abandonment mailed 22 December 2003 is hereby **VACATED**.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2) and (c4) is 06 January 2004.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

COPY MAILED

JUL 15 2005

OFFICE OF PETITIONS

In re Application of :
Thomas Walther :
Application No. 10/111,929 : ON PETITION
Filed: August 5, 2002 :
Attorney Docket No. 216469 :

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

The petition is GRANTED.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed December 2, 2004. A Notice of Abandonment was mailed on May 11, 2005.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

The application is being referred to the Office of Publications to oversee the review of the drawing filed May 24, 2005.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-26-09

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/111960 Patent No.: 7439970

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

Approved by Examiner Phu Nguyen /Phu K. Nguyen/ Nov. 7, 2009

Kee Tung — **SPE**

2628 — **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

Paper No. 8

CATHERINE ANNE WHEALY
P.O. BOX 220
TOLAR, TX 76476

COPY MAILED

DEC 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Petrus Nicolaas Johannes Schreurs :
Application No. 10/112,027 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. None :

This is a decision on the petition, filed October 20, 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 June 13, 2003. A Notice of Abandonment was mailed on April 19, 2004.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

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

The application file is being forwarded to Technology Center AU 1661 for consideration of the response filed October 20, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

ANDREAS MAYR
LANDGASSE 131
LANDSHUT, 84028
GERMANY

AIRMAIL

COPY MAILED

JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Andreas Mayr :
Application No. 10/112,061 : ON PETITION
Filed: April 1, 2002 :
For: TOP OF A TWO - PIECE SWIM OR SPORT SUIT :

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 1, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 2, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $60.00 extension of time submitted with the petition on January 21, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Credit Card.

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

The application file is being forwarded to Technology Center AU 3765.

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

OCT 27 2004

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

In re Application of :
Pradeep B. Parab et al :
Serial No.: 10/112,079 : PETITION DECISION
Filed: March 29, 2002 :
Attorney Docket No.: U 013955-8 :

This is in response to the petition under 37 CFR 1.181, filed October 14, 2003, requesting withdrawal of Finality of the last Office action. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the examiner mailed a non-Final Office action to applicants on December 23, 2002, setting a three month shortened statutory period for reply and rejecting all of the claims (1-7). Applicants replied on June 26, 2003, including a three month extension of time and fee therefor, canceling claims 1-7 and adding claims 8-17 directed to a different invention.

The examiner then mailed a Final Office action to applicants on September 23, 2003, setting a three month shortened statutory period for reply. The examiner held the amendment non-responsive in that the pending claims were directed to a different invention.

Applicants filed this petition on October 14, 2003, requesting withdrawal of the Final rejection as improper.

DISCUSSION

Applicants petition the Finality of the last Office action on the basis that the new claims are directed to a method encompassed by a dependent claim and are not constructively non-elected.

A review of the examiner's action shows a holding of constructive non-election of the pending claims. As such there were no pending claims to reject and the action could not have been made Final. The examiner's Office action was improper.

Subsequent to the filing of the petition applicants contacted the examiner by telephone to discuss the Office action the result of which was the examiner mailing a Notice of Non-responsiveness to applicants in which the Final Office action was vacated. In view of this the petition is moot

The petition is **DISMISSED** for the reason set forth above.

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, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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KEITH J. BRODIE
12 SILVEROAK
IRVINE, CA 92620

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DEC 13 2004

OFFICE OF PETITIONS

In re Application of :
Jacob B. Lopata, et al. :
Application No. 10/112,093 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. LAUNCH.001A :

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

Petitioner is advised that as of December 8, 2004, the issue fee payment increased to $700. Petitioner remitted $665 for the issue fee; therefore, the fee deficiency of $35 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 Window located at:

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

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

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

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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12 SILVEROAK
IRVINE, CA 92620

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MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Jacob B. Lopata, et al. :
Application No. 10/112,093 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. LAUNCH.001A :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 25, 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 payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This application file is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 24 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of :
Donald J. Hnatowich et al :
Serial No.: 10/112,094 : WITHDRAWAL OF ATTORNEY
Filed: April 1, 2002 :
Attorney Docket No.: 018733-1124 :

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

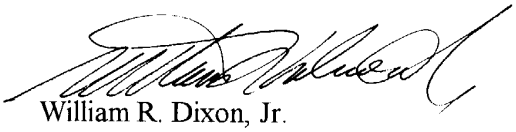
37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a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

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

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

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.



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

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Alexandria, VA 22313-1450
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WILSON & HAM
PMB: 348
2530 BERRYESSA ROAD
SAN JOSE CA 95132

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MAR 16 2007

OFFICE OF PETITIONS

In re Application of
Walter Michael Pitio
Application No. 10/112,100
Filed: March 29, 2002
Attorney Docket No.: **BAY-028**

ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed March 9, 2006. 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 June 12, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 2616 for appropriate action on the amendment filed February 20, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 10

HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS, TX 75374-1715

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JUN 0 2 2004
OFFICE OF PETITIONS

In re Application of :
Carney, et al. :
Application No. 10/112,123 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. IOPN-0012 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed December 18, 2002. Accordingly, this application became abandoned on March 19, 2002. A Notice of Abandonment was mailed on June 24, 2003.

The file is being forwarded to Technology Center 3600 for review of the amendment, submitted May 18, 2004.

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

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

MAR 0 8 2004
PATENT & TRADEMARK OFFICE

Pet. Dec.

PTO/SB/83 (09-03)

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/112,151
Filing Date	March 29, 2002
First Named Inventor	Boehr, Christopher K.
Art Unit	1743
Examiner Name	not yet assigned
Attorney Docket Number	018564-007600US

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved
JM Stone
Jacqueline M. Stone, Director
Technology Center 1700

JUL - 6 2004

Please withdraw me as attorney or agent for the above identified patent application, and

☒ all the attorneys/agents of record

☐ all the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☐ all the attorneys/agents associated with Customer Number **20350**

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: at the request of Applicant

CORRESPONDENCE ADDRESS

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	Foley & Lardner				
Address	3000 K Street, N.W.				
Address	Suite 500				
City	Washington	State	D.C.	ZIP	20007
Country	United States of America				
Telephone	202.672.5300	Fax	202.672.5399		
Name	Joseph R. Snyder				
Signature		Registration No.	39,381		
Date	March 5, 2004				

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.

60158814 v1

PTO/SB/21 (08-03) 1743

E JC10
MAR 0 8 2004
PATENT & TRADEMARK OFFICE

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

		Application Number	10/112,151
		Filing Date	March 29, 2002
		First Named Inventor	Boehr, Christopher K.
		Art Unit	1743
		Examiner Name	not yet assigned
Total Number of Pages in This Submission	2	Attorney Docket Number	018564-007600US

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☒ Power of Attorney, Revocation, Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s)
- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) *(please identify below)*:

Return Postcard

Remarks The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Townsend and Townsend and Crew LLP Joseph R. Snyder Reg. No. 39,381
Signature	Joseph R. Snyder
Date	March 5, 2004

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Marta R. Vanegas		
Signature	Marta Vanegas	Date	March 5, 2004

60158823 v1

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner of Patents

Law Office of Terry L. Miller
24832 Via San Fernando
Mission Viejo, CA 92692

MAILED

MAR 08 2005

Director's Office
Group 3700

In re Application of :
CARLSON :
Serial No. 10/112.165 : DECISION ON PETITION
Filed March 28, 2002 :
For: Multi-mode Tubing Product and Method :

This is a decision on petitioner's request, to review the holding of abandonment, mailed August 16, 2004, for failure to respond to the Notice of Allowance of April 16, 2004.

A review of the file indicates that the Notice of Allowability and Notice of Allowance were noted in the application as mailed on the April 16, 2004. Applicant has provided a copy of their docket receipt for the application noted above. In this copy it is noted that the receipt of a Notice of Allowance and Notice of Allowability are absent.

In view of the above, the Notice of Allowance and Issue Fee Due mailed April 16, 2004, was never received by appellant. The **holding of abandonment is withdrawn**. This application is being forwarded to the examiner for appropriate action.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 29 2005

Matthew F. Jodziewicz, Esq.
Suite 836
3660 Wilshire Boulevard
Los Angeles, CA 90010

Paper No. 8

In re Application of
COOPER, THERESA
Appl No.: 10/112,168
Filed: April 01, 2002
For: MICROWAVE OVEN HEATED DEPILATORY WAX APPLICATOR

DECISION GRANTING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed March 1, 2004 for failure to timely reply to the office action mailed July 8, 2003. In view of the comments in the status request submitted December 23, 2004, the request is treated as a petition to withdraw of the holding of abandonment pursuant to 37 CFR 1.181. No fee is required for this petition.

The petition is granted.

A review of the file indicates that a response was timely filed on August 8, 2003.

In view of the above, the Notice of Abandonment mailed March 1, 2004 is hereby vacated and the holding of abandonment is withdrawn. The application will be forwarded to the Technical Support Staff to return the application to an active status. The application will then be forwarded to the examiner for consideration of the amendment filed August 8, 2003.

Richard A. Bertsch, Director
Technology Center 3700

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

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of :
Dario Vitali :
Application No. 10/112,184 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. END-804 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2005, to revive the above-identified application.

The petition is **dismissed**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 28, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight September 28, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

A review of the record fails to show that petitioner submitted a response to the non-final Office action. Therefore, this application cannot be revived until a complete response has been filed.

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

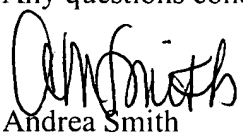
Further correspondence with respect to this matter should be addressed as follows:

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

By Hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.



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

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Commissioner for Patents
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Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P. O. BOX 272400
FORT COLLINS, CO 80527-2400

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APR 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Srinivas Guddanti :
Application No. 10/112,195 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 10013940-1 :

This is a decision on the petition filed November 30, 2006, under 37 CFR 1.47(a),[1] which is being treated under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that the named inventor execute the affidavit or declaration filed thereunder.

The petition is granted to the extent infra.

Petitioner asserts that he has been unsuccessful in his attempts to contact the inventor to execute the affidavit under 37 CFR 1.131 and has provided evidence in support of these efforts to contact the inventor. Since the inventor could not be reached to execute the affidavit, the affidavit has been signed by Mr. Bradley Haymond, who is acting as agent on behalf of assignee, Hewlett-Packard, in support of establishing conception of the claimed invention prior to the effective date of the Ecob reference cited in the non-final Office action of August 25, 2006.

As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all the named inventors of the claimed subject matter in question or by an assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor. *See* Ex parte Foster, 1903 C.D. 213, 105 O.G. 261 (Comm'r Pat. 1903). Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require inventor Srinivas Guiddanti to declare. However, the favorable decision herein does not relieve applicant from the burden of establishing that the invention was completed before the date of the reference and that the claimed invention was the product of the sole inventor herein. *See* In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935).

This application is being forwarded to Technology Center AU 2625 for further examination on the merits.

Inquiries regarding this communication may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] The filing of a petition under 37 CFR 1.47(b) is appropriate where a sole inventor refuses to execute an oath or declaration pursuant to the provisions of 37 CFR 1.63.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/13/06

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/112223** Patent No.: **7017141**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

JACK CHIANG
SUPERVISORY PATENT EXAMINER

_____ 2825
SPE **Art Unit**

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ROCKFORD MI 49341-9458

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OFFICE OF PETITIONS

In re Application of	:	
Liew, et al.	:	
Application No. 10/112,234	:	ON PETITION
Filed: March 28, 2002	:	
Title: IP-Based Vide-On-Demand System with Anti-Piracy Capabilities	:	

This is a decision on the petition to revive under 37 CFR 1.137(a), filed July 16, 2007.

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 file a reply in response to the non-final Office action mailed November 22, 2006. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on February 23, 2007. A Notice of Abandonment was mailed on June 21, 2007.

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 items (1) and (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 she did not receive the November 22, 2006 Office action. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the **docket record** where the nonreceived Office action would have been entered had it been received and docketed.[3] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[4] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must

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[1] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[3] See MPEP 711.03(c)(II).

[4] MPEP 711.03(c)(II) (emphasis added).

be submitted..."[5]

However, as petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. In that case, if petitioner seeks to establish that she did not receive the November 22, 2006 Office action, petitioner must explain her system for keeping track of patent matters; where he keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds herself of response due dates and show that the due date for the November 22, 2006 Office action was not entered into that system. The Office would like to see documentary evidence and records as may exist which would substantiate that petitioner exercised due diligence with respect to his most important business.

With regards to item (1), petitioner has not submitted a reply to the November 22, 2006 Office action. A courtesy copy of the Office action is enclosed for petitioner's convenience.

Lastly, it is noted that the instant petition is only signed by one of the inventors. Pursuant to 37 C.F.R. 1.33(b), papers filed in a patent application must be signed by an attorney or agent of record, an assignee of the entire interest, or all of the applicants (inventors).

Alternative Venue and Other Matters:

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to **37 CFR 1.137(b)** on the basis of **unintentional** delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $750 for a small entity; 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:

---

[5] Id.

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

Enc: November 22, 2006 Office action (7 pages)

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.
10/112,234	03/28/2002	William J. Liew		2893

7590 11/22/2006

Chunyan Tricia Liu
7287 Loma Linda Drive
Rockford, MI 49341-9458

EXAMINER	
AUSTIN, SHELTON W	
ART UNIT	**PAPER NUMBER**
2112	

DATE MAILED: 11/22/2006

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

Office Action Summary	Application No.	Applicant(s)	
	10/112,234	LIEW ET AL.	
	Examiner	Art Unit	
	Shelton Austin	2112	

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

Period for Reply

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

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

Status

1)☒ Responsive to communication(s) filed on *28 March 2002*.

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

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

Disposition of Claims

4)☒ Claim(s) *1-6* is/are pending in the application.

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

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6* is/are rejected.

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

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

Application Papers

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

10)☒ The drawing(s) filed on *28 March 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

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

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

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

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

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

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

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

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

Attachment(s)

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

DETAILED ACTION

Claim Rejections - 35 USC § 103

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

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

2. Claims 1, 2, 3, 4, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mckinnon, III et al. (US 6,845,106 B2) in view of Dixon et al. (US 5,935,206) and in further view of Yuen et al. (US 2002/0129151 A1).

In regards to claim 1, Mckinnon, III et al. teach an IP-based (col.1, lines 48-49) VOD (video-on-demand) system (col. 2, lines 65-67) comprising: an Internet (fig. 2; col. 7, 29-30), at least one client connected to said Internet (col. 6, lines 60-67—"user"), at least one monitoring server connected to said Internet and comprising a data source monitor, a bandwidth monitor (col. 10, lines 20-22 & 57-60; fig. 2 & fig. 6—Data Collector 88 is located within Network Access Manager 86; Network Access Manager 86 is connected to Internet 60), a threshold comparator (col. 19, lines 19-20), at least one billing server coupled with said monitoring server (col. 19, lines 62-65—SLA database; fig. 6—Database Manager 90 connected to Data Collector 88) and comprising a normal pricing function and an alternative pricing function (col. 19, lines 43-45—normal pricing function for regular use and an alternate pricing function, i.e. an increased fee), at least one authorized video file server connected to said Internet (fig. 2—30; col. 7, lines 13-15 & lines 24-31), at least one VOD server connected to said

Internet (col. 7, lines 40-45—streaming media). Mckinnon, III et al. also teach wherein said monitoring server monitors data going to said client (col. 10, lines 20-22), and said billing server generates billing information for said client according to output from said monitoring server (col. 19, lines 62-63—SLA is updated, i.e. increasing a fee, in SLA database).

Mckinnon, III et al., however, teach only servers supporting streaming media and fail to specifically teach a VOD server connected to said Internet. Mckinnon, III et al. also fail to teach said client downloads authorized video files from said authorized video file server, said VOD server administers and controls VOD functions for said client downloading said authorized video files.

In analogous art, Dixon et al. teach a VOD server connected to said internet (col. 2, lie 51—video-on-demand network) that includes a set-top box which administers and controls VOD functions (col. 2, lines 56-57—each set-top box includes controls to select and control viewing of the movies) for a client downloading video files (col. 3, lines 3-4—assets, for example, a digital movie) from a video file server (col. 2, line 53—video server).

It would have beeen obvious to one skilled in the art at the time the invention was made to modify the invention of Mckinnon, III et al. to include video-on-demand services in order to allow users to view video files at a time of their choice (col. 1, lines 20-21).

Mckinnon, III et al. also fail to teach at least one unauthorized file source connected to said Internet and that said client may download unauthorized files from said unauthorized source.

In analogous art, Yuen et al. teach at least one unauthorized file source connected to said Internet and that a client may download unauthorized files form said unauthorized source (Fig. 2—non-partner server 230 connected to internet 219; page 1, paragraph [0009]—unauthorized server).

It would have been obvious to one skilled in the art at the time the invention was made to modify the system of Mckinnon, III et al. to include an unauthorized file source connected to the internet in which a client is able to download from in order to benefit a user by allowing enhanced playback of the unauthorized file (page1, paragraph [0009]).

In regards to claims 2, 3, 4, 5 and 6, Mckinnon, III et al., Dixon et al. and Yuen et al. teach the limitations of claim 1 for the reasons above.

In regards to claim 2, Mckinnon, III et al. further teach said data source monitor monitors the source of data packets received by said client (col. 10, lines 19-20 & lines 55-56).

In regards to claim 3, Mckinnon, III et al. further teach said normal pricing function is used if said data packets come from said authorized video file server (col. 19, lines 17-20 & 43-45—no fee increase when data packets come from the CMTS and the bandwidth does not exceed, by a predetermined tolerance, a minimum threshold).

In regards to claim 4, Mckinnon, III et al. further teach if said data packets come from said unauthorized source, (1) said bandwidth monitor measures the average bandwidth between said client and said unauthorized file source within a time interval and generates a measured average bandwidth (col. 11, lines 1-12), (2) said measured average bandwidth is compared to a threshold (col.19, lines 17-20), (3) said normal

pricing function is used if said measured average bandwidth is smaller than said threshold (col. 19, lines 17-20 & 43-45—no fee increase when the bandwidth does not exceed, by a predetermined tolerance, a minimum threshold), (4) said alternative pricing function is used if said measured average bandwidth is not smaller than said threshold (col. 19, lines 31-33 & 43-45).

It was common knowledge in the art at the time the invention was made to apply the steps of claim 4, taught by Mckinnon, to any file, regardless if originating from an unauthorized source.

In regards to claim 5, Mckinnon, III et al. further teach said alternative pricing function generates a higher price than said normal pricing function generates for said client (col. 19, line 43-45).

In regards to claim 6, Mckinnon, III et al. further specifies software components that perform the preferred methods of the present invention (col. 5, lines 62-64; fig. 6), and have been aforementioned.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

The reference teaches a bandwidth control service apparatus.

US Pat No 7, 072, 968 B2

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelton Austin whose telephone number is (571) 272-

9385. The examiner can normally be reached on Monday through Thursday from 7:30-5:00. The examiner can also be reached on alternate Fridays from 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Stucker whose telephone number is (571) 272-0911, can be reached on Monday through Thursday from 7:30-5:00. The supervisor can also be reached on alternate Fridays from 7:30-4:00. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shelton Austin SA.
11/15/2006

JEFFREY STUCKER
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose CA 95113

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OFFICE OF PETITIONS

In re Application of :
Bartz et al. :
Application No. 10/112,236 : DECISION ON PETITION
Filed: 03/29/2002 :
Attorney Docket No. CYPR-CD01190M :

This is decision on the petition under 37 CFR 1.181, filed May 30, 2007, to withdraw the holding of abandonment in the above-identified application.

On August 10, 2006, the Office mailed a nonfinal Office action, which set a three month shortened statutory period for reply. In the apparent absence of a timely filed response, the application became abandoned on November 11, 2006. The Office mailed a Notice of Abandonment on May 3, 2007.

In the present petition, petitioners requested that the Office withdraw the holding of abandonment because they submitted a timely reply to the nonfinal Office action on November 9, 2006. Petitioners provided the Office with copies of (1) an itemized "Amendment Transmittal," bearing a certificate of mailing date of November 9, 2006, (2) the reply, and (3) the practitioner's docket report, which referenced the reply filed on November 9, 2006. Unfortunately, the reply was not located in the official file. Therefore, petitioners must rely on the certificate of mailing as evidence of the timely filing of the reply on November 9, 2006.

Pursuant to Section 711.03(c)(I)(B) of the Manual of Patent Examining Procedure:

> Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely

mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application).

In the present petition, petitioners did not provide a statement under 37 CFR 1.8(b)(3), attesting to a personal knowledge of the mailing of the original response on the date indicated on the certificate of mailing by the person who signed the certificate. Nevertheless, in support of the statement in the petition that the reply was timely mailed, petitioners included a copy of the practitioner's docket record establishing that the reply was actually mailed.

The present petition satisfies the requirements of 37 CFR 1.8(b). The petition is **granted**. Accordingly, the holding of abandonment for failure to file a timely reply to the nonfinal Office action of August 10, 2006, is withdrawn and the application is restored to pending status. The Office will accept the copy of the reply submitted with the petition in place of the reply mailed on November 9, 2006.

This matter is being referred to Technology Center AU 2128 for appropriate action on the reply submitted on May 30, 2007 (certificate of mailing dated November 9, 2006).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 8

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

COPY MAILED

APR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Mark Thompson et al :
Application No. 10/112,257 : NOTICE
Filed: March 29, 2002 :
Attorney Docket No. 10020/22902 :

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

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

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

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

This file is being forwarded to Technology Center 1700.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/16/2005

TO SPE OF : ART UNIT 1700 (1774)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,869,695

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

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

Okay for dependency change (48 to 46) as requested?

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

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

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☒ **Denied**	State the reasons for denial below.

Comments:

The requested change in claim dependency does not correct an error in printing of the patent. The two affected claims are dependent upon claim 48 per examiner's amendment authorized by applicant's representative.

SPE

1774
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

MAILED

JUL 22 2003

Technology Center 2100

OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

In re Application of: Gunnar D. Tapper, et al.)
Application No. 10/112,263)
Filed: March 29, 2002) **DECISION ON REQUEST FOR**
For: INFORMATION EXCHANGE FOR) **WITHDRAWAL AS ATTORNEY**
PROCESS PAIR REPLACEMENT IN)
A CLUSTER ENVIRONMENT)

This is a decision on the Request To Withdraw from Representation filed May 16, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Hewlett-Packard Company
Intellectual Property Administration
Attn: Bill Streeter
P.O. Box 272400
Fort Collins, CO 80527-2400

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

Fernandez & Associates, LLP
PO Box D
Menlo Park, CA 94026-6204

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MAR 1 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Lin	:	
Application No. 10/112,265	:	DECISION GRANTING
Filed: March 28, 2002	:	PETITION
Attorney Docket No. ICM-P010	:	

This is a decision on the petition filed February 3, 2003, to accord the above-identified application a filing date of March 28, 2002.

On March 28, 2002, the application was filed.

On May 1, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, a petition was filed on May 7, 2002, alleging that drawings were deposited on March 28, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 7 sheets of drawings on March 28, 2002.[1] Petitioner has also submitted a copy of the missing documentation.

The merits of the May 7, 2002 petition were not considered. The petition was simply placed in the file and the application was given the filing date of May 7, 2002.

Petitioner has demonstrated that the May 7, 2002 petition should have been considered and granted. The evidence is convincing that the application papers deposited on March 28, 2002, included 7 sheets of drawings and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of March 28, 2002.

In view of the above, the petition is **granted**. The copy of the drawings submitted on May 7, 2002, will be used for examination purposes.

A refund of the $130 petition fee will be scheduled.

The Notice mailed May 1, 2002, was sent in error and is hereby vacated.

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[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 28, 2002, using the application papers filed on March 28, 2002, and the copy of 7 sheets of drawings filed on May 7, 2002.

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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GREENBERG TRAURIG, LLP
1900 UNIVERSITY AVENUE
FIFTH FLOOR
EAST PALO ALTO, CA 94303

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JAN 26 2007

OFFICE OF PETITIONS

In re Application of :
Shang Hung Lin :
Application No. 10/112,265 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. 79981-200901US

This is a decision on the petition under 37 CFR 1.181 filed on November 24, 2006, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on December 5, 2005, after no response was received to the "Notice Regarding Drawings" mailed October 4, 2005, which set a non-extendable for reply of two-months from its mailing date. No response was received within the allowable period, and the application became abandoned on December 5, 2005. A Notice of Abandonment was mailed on November 20, 2006.

In the instant petition, petitioner maintains that the "Notice Regarding Drawings" was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires 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.

The copy of the docket records for MagnaChip Semiconductor Ltd., filed November 24, 2006, is noted, but is not acceptable. The docket records appear to be written in Chinese—a language in which the undersigned is not fluent. Accordingly, the undersigned has no way of verifying non-receipt of the "Notice Regarding Drawings." The petition must be dismissed. Any renewed petition filed must be accompanied by a translation of the relevant docket records.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,500.00 for a large entity and $750.00 for a verified small entity), and a statement that the **entire** delay in filing the required

reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GREENBERG TRAURIG, LLP (SV2)
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA, CA 90404

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Shang-Hung Lin :
Application No. 10/112,265 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. :
79981-200901/US

This is a decision on the petition under 37 CFR 1.137(b), filed February 16, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned on December 5, 2005, after no response was received to the Notice Regarding Drawings, mailed October 4, 2005, which set a non-extendable period for reply of two months from its mailing date. A Notice of Abandonment was mailed on January 20, 2006. A petition to withdraw the holding of abandonment based on non-receipt of the Notice of October 4, 2005 was filed on November 24, 2006 and dismissed on January 26, 2007. Comes now this petition under 37 CFR 1.137(b) to revive this application as having been unintentionally abandoned.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of drawings, (2) the petition fee of $1,500, and (3) a showing to the satisfaction of the Director that the entire delay was unintentional. Accordingly, the failure to timely reply to the Notice of October 4, 2005 is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg.

53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being referred to Publishing Division for review of the drawings filed on February 16, 2007. If the drawings are found not to be acceptable, the Office of Publications will mail out a Notice indicating what corrections are required and set a time period for reply thereto.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Jong P. Hong
Greenberg Traurig, LLP
1900 University Avenue
5th Floor
E. Palo Alto, CA 94303

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/4/08 **Paper No.:**

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/112265 Patent No.: 7226245 B1

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

BRIAN WERNER
SUPERVISORY PATENT EXAMINER

3/19/2009

2624

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WESTERN DIGITAL CORP
20511 LAKE FOREST DRIVE
C205-INTELLECTUAL PROPERTY DEPARTMENT
LAKE FOREST, CA 92630

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Vinay K. Agarwal et al :
Application No. 10/112,282 : DECISION GRANTING PETITION
Filed: March 29, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. K35A0944 :

This is a decision on the petition, filed June 8, 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 6, 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 2651 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 97101-1688

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AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of
Simon I. Gresham et al
Application No. 10/112,300
Filed: March 28, 2002
Attorney Docket No. 58479-15

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3)
: AND UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.55, filed June 21, 2004, which is being treated as a petition under the provisions 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed nonprovisional and PCT applications (namely, Application No. 09/487,752 and International Application No. PCT/AU99/00737), and under 37 CFR 1.55(c) to accept a late claim for priority under 35 U.S.C. § 119(a)-(d) for the benefit of prior-filed foreign applications (namely, Great Britain Application Nos. 9909825.3 and 9819587.8).

The petitions are **DISMISSED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition under 37 CFR 1.78(a)(3) lacks compliance with item (1) above. In this regard, the petition is not accompanied by a reference to the prior-filed nonprovisional and PCT applications

in an amendment to the first line of the specification following the title as required by 37 CFR 1.78(a)(iii) or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(5).

In view thereof, an amendment to include a reference to the prior-filed applications to the first line of the specification following the title or an ADS complying with the provisions of 37 CFR 1.76(b)(5) must be submitted. If the reference to the prior-filed applications is by way of an amendment, compliance with 37 CFR 1.121 must also be met.

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.

The instant petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration in accordance with 37 CFR 1.63(c)(2) or in an ADS in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent or inventor's certificate for which priority is claimed under 37 CFR 1.55, and any foreign applications having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14, page 200-77 (Rev. 2, May 2004), last paragraph, second column.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign applications noted in the petition.

Any petition for reconsideration must be submitted under a cover letter entitled "Renewed Petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c)," and be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office 220 20th Street S Customer Window, Mail Stop Petitions Crystal Plaza Two Lobby, Room 1B03 Arlington, VA 22202
By fax:	(703) 872-9306 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Patricia Faison-Ball at (703) 305-4497.[1]

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Effective September 27, 2004, the phone number will be 571-272-3212.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 97101-1688

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MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of
Simon I. Gresham et al
Application No. 10/112,300
Filed: March 28, 2002
Attorney Docket No. 58479-15

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3)
: AND UNDER 37 CFR 1.55(c)

This is a decision on the request for reconsideration filed September 10, 2004 and supplemented on January 7, 2005, under the provisions 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed nonprovisional and PCT applications (namely, Application No. 09/487,752 and International Application No. PCT/AU99/00737), and under 37 CFR 1.55(c) to accept a late claim for priority under 35 U.S.C. § 119(a)-(d) for the benefit of prior-filed foreign applications (namely, Great Britain Application Nos. 9909825.3 and 9819587.8).

The petitions are **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the above-noted, prior filed applications was included in an Application Data Sheet

(ADS). *Note* 37 CFR 1.78(a)(2)(iii) and 37 CFR 1.76(b)(5). Accordingly, having found that the instant petition for acceptance of an unintentionally delay 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 thereunder is granted.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date 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.

The instant pending nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed foreign applications is submitted after expiration of the period specified in 37 CFR 1.55(a)(1). The claim for benefit of priority to the above-noted, prior filed foreign applications was submitted in an ADS in accordance with 37 CFR 1.55(a)(1) and 37 CFR 1.76(b)(6). Additionally, intermediate PCT Application No. Filed foreign applications. Further, the ADS received on January 7, 2005 identifies the foreign applications for which priority is claimed by application number, country and filing date

The required petition fee of $1330.00 was received June 21, 2004[1]. Lastly, petitioner

[1]A petition under 37 CFR 1.78 and 37 CFR 1.55 was filed June 21, 2004 and dismissed in a decision mailed August 26, 2004 because the petition was not accompanied by a reference to the prior-filed nonprovisional and PCT applications in an amendment to the first line of the specification following

has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a) through (d) is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed applications, accompanies this decision on petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications 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) and 35 U.S.C. §§ 119(a)-(d) and 37 CFR 1.55 must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

This application is being forwarded to Technology Center Art Unit 2155 for examination in due course and for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed nonprovisional and PCT applications and for consideration of the claim for priority under 35 U.S.C. § 119(a) through (d) for the benefit of the foreign applications as set forth in the ADS filed on January 7, 2005.

Any questions concerning this matter may be directed to Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Karen Creasy for

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

---

the title as required by 37 CFR 1.78(a)(iii) or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(5) and because the record failed to disclose that the priority information was included in an oath or declaration in accordance with 37 CFR 1.63(c)(2) or in an ADS in accordance with 37 CFR 1.76(b)(6).

UNITED STATES 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

AUG 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

PAUL W. MARTIN
LAW DEPARTMENT, WHQ-4
1700 S. PATTERSON BLVD.
DAYTON OH 45479-0001

In re Application of
KUMAR, ALOK
Application No. 10/112,318
Filed: March 29, 2002

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

For: **SYSTEM AND METHOD FOR COUPLING USERS TO A RETAIL COMPUTER SYSTEM WITH LOW RISK OF EAVESDROPPING**

This is a decision on the Petition to Withdraw Holding of Abandonment under 37 CFR § 1.181(a) filed July 27, 2005. No fee is required.

This application is in an abandoned status for failure to respond to the non-final Office action mailed November 18, 2004. A Notice of Abandonment was mailed June 6, 2005.

Petitioner alleges non-receipt of the non-final Office action mailed November 18, 2004. In support of the petition, petitioner has provided a statement that the office communicated was not received.

A review of the file finds that the U.S. Postal Service returned the original non-final Office action. Although, there was no finding of irregularity in the correspondence address, there was an obvious irregularity in mailing since the Office action was returned.

Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file will be forwarded to the Technology Center's technical support staff for re-mailing of the non-final Office action originally mailed on November 18, 2004. The shortened statutory period of three months will be set to begin as of the mailing thereof.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ORION LAW GROUP
3 HUTTON CENTRE
SUITE 850
SANTA ANA CA 92707

COPY MAILED

MAY 2 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Lawrence G. MEARES	:	
Application No. 10/112,320	:	DECISION ON PETITION
Filed: March 27, 2002	:	
Attorney Docket No. 1024.P0003US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 22, 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, September 11, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2128 for appropriate action by the Examiner in the normal course of business on the reply received April 22, 2008.

/Thurman K. Page/
Thurman Page
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10112320 Total Records Found: 9

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
04/23/2008	00003510	4	2453	$770.00	04/22/2008	CC
06/29/2007	00006568	4	2252	$225.00	06/28/2007	CC
11/09/2006	00000117	1	1806	$180.00	11/09/2006	CC
11/06/2006	00001700	4	2253	$510.00	11/03/2006	CC
02/10/2006	00000230	1	2253	$510.00	02/09/2006	CK
04/03/2002	00000015	1	201	$370.00	03/27/2002	CK
04/03/2002	00000016	1	203	$144.00	03/27/2002	CK
04/03/2002	00000017	1	202	$126.00	03/27/2002	CK
04/03/2002	00000018	1	581	$40.00	03/27/2002	CK

PTO/SB/64 (01-08)
Approved for use through 04/30/2008. 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 displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 1024.P0003US

First named inventor: Lawrence G. Meares

Application No.: 10/112,320 Art Unit: 2128

Filed: March 27, 2002 Examiner: Gebresilassie, Kibrom K.

Title: SYSTEM AND METHOD OF PREVENTING THE SIMULATION OF A CIRCUIT IF A CHANGE TO THE CIRCUIT TOPOLOGY IS DETECTED

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

[X] Small entity-fee $ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

[ ] Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment (identify type of reply):

[ ] has been filed previously on _____.
[X] is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
[ ] has been paid previously on _____.
[ ] is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/George L. Fountain/	April 22, 2008
Signature	Date
George L. Fountain	36,374
Typed or printed name	Registration Number, if applicable
Orion Law Group 3 Hutton Centre, Suite 850	714-768-6801
Address	Telephone Number
Santa Ana, CA 92707	
Address	

Enclosures:
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☒ Other: Via Electronic Filing

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ Date

_____ Signature

_____ Typed or printed name of person signing certificate

7

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/7/06

Paper No.: _____

TO SPE OF : ART UNIT 2879

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/112323 Patent No.: 6741029 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**.

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: Applicant's submitted corrections at col. 2, line 20; col. 7, line 26; col 8, lines 46 & 53; col. 9, lines 34, 35 & 48; and col. 10, line 57 are approved. However corrections at col. 7, following table I are NOT approved since such corrections would raise an issue which would require further consideration.

SPE

2879

Art Unit

Docket No.: 4332

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.. : US 6,741,029 B2
DATE : May 25, 2004
INVENTOR : Matsubara et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

ok to enter AP 4/21/06

Column 2:

line 20, after "layer", replace "B" by --8--.

Column 7:

line 26, before "of", replace "currant" by --current--.

following Table 1, delete the paragraph at lines 51 to 56.

following Table 1, insert the following paragraphs:

Do NOT enter

It can be understood from Table 1 that after being annealed at 250 degrees centigrade, only devices A and A' were significantly increased in Vf, whereas the other devices hardly varied in Vf. That is, it has been found that using epoxy resin having Tg of lower than 80 degrees centigrade or resin still soft at room temperature to encapsulate LED 5 can prevent LED 5 from floating up due to annealing and can thus prevent Vf from increasing disadvantageously.

Furthermore, as compared to devices H and H' in the form of a bare chip, only devices A and A' were extremely reduced in lifetime, as can be seen from Table 1, while the other devices hardly had a problem. The lifetimes of devices B and B', although somewhat reduced, are believed to be tolerable. From this result it has been found that using epoxy resin having Tg of lower than 80 degrees centigrade or resin still soft at room temperature to encapsulate LED 5 can also eliminate disadvantageously reduced lifetime in luminance.

ADDRESS OF SENDER: FASSE PATENT ATTORNEYS, P.A.
P. O. BOX 726
HAMPDEN, MAINE 04444-0726, U.S.A.

PATENT NO.: US 6,741,029 B2

Form PTO 1050 (REV.3-82)

SEP 0 2 2004

Docket No.: 4332

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.. : US 6,741,029 B2
DATE : May 25, 2004
INVENTOR : Matsubara et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 8:
line 46, after "by", replace "ref lowing" by --reflowing--;
line 53, after "high-temperature", replace "ref lowing" by --reflowing--.

Column 9:
line 34, after "the", replace "ref" by --reflowing--;
line 35, before "process,", delete "lowing".
line 48, after "by", replace "ref loving" by --reflowing--.

Column 10:
line 57, after "device", insert --on--.

ok to enter and 4/21/06

ADDRESS OF SENDER: FASSE PATENT ATTORNEYS, P.A.
P. O. BOX 726
HAMPDEN, MAINE 04444-0726, U.S.A.

PATENT NO.: US 6,741,029 B2

Form PTO 1050 (REV.3-82)

SEP 02 2004

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

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA, CA 91105

In re Application of:
Steven L. Smith, Noel Gharbian, Douglas G. Harvey, Mark McLonis, Christopher D. Peara, Scott L. Pool, Guiseppe Sacca, Thomas R. Sakaguchi, Sharilyn J. Sandberg, William V. Walter, Nicholas Chung-Hui Wu, Walter A. York and H. Theodore Young
Application No. 10/112,325
Filed: March 29, 2002
Title of Invention: FLEXIBLE MULTI-COMPARTMENT CONTAINER WITH PEELABLE SEALS AND METHOD FOR MAKING SAME

COPY MAILED

DEC 2 3 2002

OFFICE OF PETITIONS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed November 18, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). A three (3) month extension of time is requested and is hereby granted.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on March 29, 2002, without a fully executed oath or declaration. Accordingly, on June 12, 2002 a "Notice to File Missing Parts of Nonprovisional Application" (hereinafter "Notice"), was mailed to Petitioner. The Notice required, in relevant part, a fully executed oath or declaration. Applicant was given two-months from the date of the Notice within which to file a fully executed oath or declaration. Extensions of time were available under 37 CFR 1.136(a).

Petitioner responds with the instant petition, extension-of-time request and Declarations executed by the available inventors.

Applicable Law:

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the

non-signing inventor. The instant petition lacks both items (1) and (4).

As to item (1), the applicant has failed to establish that the nonsigning inventor was ever presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

> 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. Emphasis supplied.

MPEP 409.03(d).

As required by the MPEP, a copy of the application should be sent to the last known address of the nonsigning inventor(s).

As to item (4), the last known address should be the last known residence at which the inventor customarily receives mail. See, MPEP 409.03(e) and 605.03.

Petitioner must send a copy of the entire application, including the specification, claims and drawings, along with the oath or declaration to the nonsigning inventor at the last known address of the inventor, as set forth in the first page of the petition, before refusal can be alleged.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA, CA 91105

In re Application of: Steven L. Smith, Ward Barney, Noel Gharbian, Douglas G. Harvey, Mark McLonis, Christopher D. Peara, Scott L. Pool, Guiseppe Sacca, Thomas R. Sakaguchi, Sharilyn J. Sandberg, William V. Walter, Nicholas Chung-Hui Wu, Walter A. York and H. Theodore Young Application No. 10/112,325 Filed: March 29, 2002 Title of Invention: FLEXIBLE MULTI-COMPARTMENT CONTAINER WITH PEELABLE SEALS AND METHOD FOR MAKING SAME	COPY MAILED MAR 19 2003 OFFICE OF PETITIONS DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the Petition Under 37 C.F.R. 1.47(a), filed January 30, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Ward Barney, refuses to sign the declaration.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Mr. Ward Barney
3 Pepperbush Court
Medford, NJ 08055

In re Application of:
Steven L. Smith, Ward Barney, Noel Gharbian, Douglas G. Harvey, Mark McLonis, Christopher D. Peara, Scott L. Pool, Guiseppe Sacca, Thomas R. Sakaguchi, Sharilyn J. Sandberg, William V. Walter, Nicholas Chung-Hui Wu, Walter A. York and H. Theodore Young
Application No. 10/112,325
Filed: March 29, 2002
Title of Invention: FLEXIBLE MULTI-COMPARTMENT CONTAINER WITH PEELABLE SEALS AND METHOD FOR MAKING SAME

COPY MAILED

MAR 19 2003

OFFICE OF PETITIONS

LETTER

Dear Mr. Barney:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA, CA 91105

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MARK DORNER
10833 WILSHIRE BLVD.
LOS ANGELES, CA 9024

COPY MAILED

AUG 2 9 2002

OFFICE OF PETITIONS

In re Application of :
Sendowski, et al. :
Application No. 10/112,346 :
Filed: March 29, 2002 : LETTER
Attorney Docket No. HEAL0006 :
For: BRANCHING SCRIPT ENGINE :

Dear Mr. Dorner:

You are named as the inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(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) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: GLENN PATENT GROUP
3475 EDISON WAY
SUITE L
MENLO PARK, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

GLENN PATENT GROUP
3475 EDISON WAY
SUITE L
MENLO PARK, CA 94025

COPY MAILED

AUG 2 9 2002

OFFICE OF PETITIONS

In re Application of :
Sendowski, et al. :
Application No. 10/112,346 : DECISION GRANTING STATUS
Filed: March 29, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. HEAL0006 :
For: BRANCHING SCRIPT ENGINE :

This is in response to the petition under 37 CFR 1.47(a), filed July 1, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventor Mark Dorner has refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

BROWN, MARTIN, HALLER & MCCLAIN LLP
1660 UNION STREET
SAN DIEGO CA 92101-2926

COPY MAILED

MAR 12 2003

OFFICE OF PETITIONS

In re Application of :
Michael Harrison and :
Thomas Mitchell :
Application No. 10/112,353 :
Filed: March 28, 2002 :
Title: SECURE ENCLOSURE FOR ACCESS :
TO CABLED SYSTEMS :

DECISION ACCORDING STATUS
UNDER 37 CFR § 1.47(a)

This is a decision on the "Petition under 35 U.S.C. § 116, ¶2 and 37 C.F.R. § 1.47(a)," filed September 4, 2002.

The petition is **GRANTED**.

The above-identified application was filed on March 28, 2002, with an unexecuted declaration and naming Michael Harrison and Thomas Mitchell as joint inventors. Accordingly, on May 1, 2002, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring an executed oath or declaration, and a surcharge for late filing. This Notice set a period for reply of two months from the mailing date of the notice, with extensions of time obtainable under § 1.136(a).

On September 4, 2002, applicants responded with a declaration executed by joint inventor Harrison on behalf of himself and on behalf of non-signing inventor Mitchell; the late surcharge under § 1.16(l); and the instant petition (and petition fee). To make this reply timely, a request for extension within the second month (and extension fee) accompanied the response.

Rule 47 applicants maintain that status under 37 CFR 1.47 is proper because joint inventor Thomas Mitchell refuses to join in the application for patent. 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.

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. Joint inventor Harrison declares that he met with inventor Mitchell on May 15, 2002, presented him with the declaration along with the other application papers, and Mr. Mitchell stated that he would not sign the declaration.

The declaration filed September 4, 2002, and the petition 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 new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2831 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

MR. THOMAS MITCHELL
3264 CHASE COURT
OCEANSIDE, CA 92056

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MAR 12 2003

OFFICE OF PETITIONS

In re Application of :
Michael Harrison and :
Thomas Mitchell : LETTER
Application No. 10/112,353 :
Filed: March 28, 2002 :
Title: SECURE ENCLOSURE FOR ACCESS :
TO CABLED SYSTEMS :

Dear Mr. Mitchell:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Petitions Attorney
Office of Petitions

Colleen J. McKiernan
BROWN, MARTIN, HALLER & MCCLAIN LLP
1660 UNION STREET
SAN DIEGO CA 92101-2926
(619) 238-0999

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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IPSOLON LLP
805 SW BROADWAY, #2740
PORTLAND, OR 97205

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DEC 16 2004

OFFICE OF PETITIONS

In re Application of
Michael J. Sinclair
Application No. 10/112,369
Filed: March 29, 2002
Attorney Docket No. 1026-060/MMM 167408.1

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 10, 2004 to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Jerome G. Schaefer appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Schaefer desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Schaefer, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 24, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being referred to Technology Center AU 2834 for further processing of the request for continued examination under 37 CFR 1.114 filed December 10, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JEROME G. SCHAEFER
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE –46TH FLOOR
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

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NOV 18 2004

Director's Office
Office of Patent Publication

PATENT GROUP GA030-43
GEORGIA-PACIFIC CORPORATION
133 PEACHTREE STREET, N.E.
ATLANTA GA 30303-1847

In re Application of :
John H. Dwiggins, et al. :
Application No. 10/112,376 : **DECISION ON PETITION**
Filed: March 28, 2002 :
Attorney's Docket No. 2136 :

The Petition To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) via facsimile transmission on June 29, 2004 is set aside as moot, since there is no abandonment in fact.

The Fee(s) Transmittal was timely submitted via Certificate of Mailing on March 9, 2004 and therefore in compliance with 37 CFR § 1.8.

As authorized, the Issue Fee in the amount of $1,330 and $300 for the Publication fee were charged to Deposit Account No. 10-0235.

The application will be processed into a patent.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Patent Publication at 703-305-8380.

Thomas Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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PATENT GROUP GA030-43
GEORGIA-PACIFIC CORPORATION
133 PEACHTREE STREET, N.E.
ATLANTA GA 30303-1847

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JUN 07 2005

OFFICE OF PETITIONS

Applicant: Dwiggins et al.
Appl. No.: 10/112,376
Filing Date: March 28, 2002
U.S. Patent No.: 6,896,768
Issue Date: May 24, 2005
Title: SOFT BULKY MULTI-PLY PRODUCT AND METHOD OF MAKING THE SAME
Attorney Docket No.: 16273/20101
Pub. No.: US 2003/0102096 A1
Pub. Date: June 5, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on August 4, 2003.

The request is DISMISSED as moot.

The instant request identifies an error in the published patent application publication. Since the application has already issued as U.S. Patent No. 6,896,768 on May 24, 2005, the request is deemed moot.

Inquiries relating to this matter may be directed to the undersigned at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
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Paper No. 6

Perkins Coie LLP
Patent-Sea
PO Box 1247
Seattle, WA 98111-1247

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JUL 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Prasad Gune et al. :
Application No. 10/112,415 : DECISION GRANTING PETITION
Filed: March 29, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 38481-8004US :

This is a decision on the petition, filed June 30, 2003, under 37 CFR 1.137(b, to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on February 10, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 30, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Latrice Bond at (703) 308-6911.

This application is being forwarded to Technology Center Art Unit 3623 for examination in due course.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Marianne C. Morgan for
Frances Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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

CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 04/26/2010

Applicant	: Prasad Gune	: DECISION ON REQUEST FOR
Patent Number	: 7672853	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/112,415	: OF WYETH
Filed	: 03/29/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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R. Alan Burnett
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of :
YU, et al. :
Application No. 10/112,417 : DECISION ON PETITION
Filed: March 29, 2002 : TO WITHDRAW
Attorney Docket No. 005306.P077 : 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 03, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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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JAMES M. STOVER
NCR CORPORATION
1700 SOUTH PATTERSON BLVD, WHQ4
DAYTON OH 45479

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MAR 15 2007

OFFICE OF PETITIONS

In re Application of :
Reed, et al. :
Application No. 10/112,419 : DECISION ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 10224 :

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 **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, May 16, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) requires: (1) a reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Technology Center 2100 for processing of the RCE submitted herewith.

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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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P O BOX 272400
FORT COLLINS, CO 80527-2400

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OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Steven B. Elgee :
Application No. 10/112,433 : DECISION GRANTING PETITION
Filed: March 29, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10014655-1 :

This is a decision on the petition, filed October 5, 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 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2853 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

HOWISON & ARNOTT LLP
PO BOX 741715
DALLAS TX 75374-1715

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JUN 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Carney, et al. :
Application No. 10/112,438 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. BLBV-26452 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 2004, to revive the above-identified application.

The petition 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 November 29, 2002. 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. No reply having been received, the above-identified application became abandoned on March 1, 2003. A Notice of Abandonment was mailed on June 4, 2003.

With the instant petition, petitioner paid the petition fee, filed a reply in the form of an amendment, and made the proper statement of unintentional delay.

The application file is being forwarded to Group Art Unit 3622 for consideration of the amendment filed May 18, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DYKEMA GOSSETT
39577 WOODWARD AVENUE
SUITE 300
BLOOMFIELD HILLS MI 48304-5086

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JUN 2 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Robert Allan Morris	:	
Application No. 10/112,441	:	ON PETITION
Filed: March 29, 2002	:	
Attorney Docket No. 40027-005	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 2, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 3, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ALEXANDRIA, VA 22313-1450
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Paper No. 6

MARTINE & PENILLA, LLP
710 LAKEWAY DRIVE
SUITE 170
SUNNYVALE CA 94085

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SEP 2 6 2003

OFFICE OF PETITIONS

In re Application of
Jibing Lin et al.
Application No. 10/112,447
Filed: March 29, 2002
Attorney Docket No. LAM2P338
Title: REINFORCED CHEMICAL MECHANICAL PLANARIZATION BELT

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(f)

This is a decision on the petition filed on September 3, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign or an international application on March 10, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

On March 28, 2003, a Notice of Rescission of Nonpublication Request was filed with the Office, along with the instant petition. Unfortunately, this was not accompianied by a notice of the foreign or international filing.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of October 2, 2003 accompanies this decision on petition.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning *this decision* should be directed to Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Patrick D. Daley	: DECISION ON REQUEST FOR
Patent Number	: 7570584	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/112,452	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1215** 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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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

PIPER RUDNICK LLP
1200 NINETEENTH STREET N.W.
WASHINGTON DC 20036-2412

MAIL Paper No. 8

AUG 0 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Denis Khoo, et al.
Application No. 10/112,519
Filed: March 29, 2002
For: **METHOD AND SYSTEM FOR PROVIDING INTELLIGENT ADVERTISEMENT PLACEMENT IN A MOTION PICTURE**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed November 7, 2002 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:

(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

INTERNATIONAL BUSINESS MACHINES CORPORATION
c/o HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN, TX 78720

In re Application of :
Sebastian D. Hassinger, et al. :
Application No. 10/112,529 :
Filed: March 28, 2002 : ON PETITION
Attorney Docket No. AUS920010200US1 :

This is a decision on the petition, filed November 3, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed April 18, 2005. A Notice of Abandonment was mailed on January 31, 2006. On November 3, 2006, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2194 for consideration of the amendment filed November 3, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

INTERNATIONAL BUSINESS MACHINES CORPORATION
c/o HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN, TX 78720

In re Application of :
Margaret G. Macphail, et al. :
Application No. 10/112,530 :
Filed: March 28, 2002 : ON PETITION
Attorney Docket No. AUS920010202US1 :

This is a decision on the petition, filed November 3, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed September 23, 2005. A Notice of Abandonment was mailed on August 24, 2006. On November 3, 2006, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2153 for consideration of the amendment filed November 3, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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INTERNATIONAL BUSINESS MACHINES CORPORATION
c/o HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN TX 78720

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OFFICE OF PETITIONS

In re Application of	:	
Kumhyr et al.	:	
Application No. 10/112,538	:	ON PETITION
Filed: March 28, 2002	:	
Attorney Docket No. AUS920010634US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 10, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 7

HONEYWELL INTERNATIONAL INC.
Law Dept. AB2
PO Box 2245
Morristown NJ 07962-9806

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APR 1 6 2004

OFFICE OF PETITIONS

In re Application of
Larry J. Yount et al.
Application No. 10/112,552
Filed: March 28, 2002
Attorney Docket No. H0003265
Title: METHODS AND APPARATUS FOR ERROR-TOLERANT WRAP-BACK ACE MONITOR

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(a)

This is a decision on the petition under 37 CFR 1.137(a)[1], filed February 2, 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 December 23, 2002, 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 March 24, 2003. A notice of abandonment was mailed August 12, 2003.

With the instant petition, a copy of an amendment has been supplied, which contains a certificate of facsimile transmission dated March 17, 2003.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met her burden of establishing that the facsimile transmission was sent in a timely manner.

Accordingly, the petition is **GRANTED**.

---

1 A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The application file is being forwarded to Technology Center 3600 for further processing of the amendment filed with the instant petition.

Telephone inquiries *pertaining to this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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CASCADIA INTELLECTUAL PROPERTY
500 UNION STREET, SUITE 1005
SEATTLE, WA 98101

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OFFICE OF PETITIONS

In re Application of :
QUINN, Michael J. :
Application No. 10/112,577 : DECISION ON PETITION
Filed: March 29, 2002 : TO WITHDRAW
Attorney Docket No. 6533/54112US1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 29, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Patrick J.S. Inouye of CASCADIA INTELLECTUAL PROPERTY has been revoked by the assignee of the patent application on October 16, 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) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LAW OFFICE OF MARK J. SPOLYAR**
2200 CESAR CHAVEZ STREET, SUITE 8
SAN FRANCISCO CA 94124

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Dr. Benjamin Adler
Adler & Associates
8011 Candle Lane
Houston, TX 77071

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APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Jian-Yun Dong :
Application No. 10/112,579 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 22488-729 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A final Office action was mailed to applicant on July 28, 2004, which set a three (3) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on October 29, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, an amendment. Receipt of the amendment is acknowledged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 1600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 6

STEVEN P. WIGMORE
KING & SPALDING
45TH FLOOR
191 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30303

MAIL

OCT 0 3 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Michael G. Vrazel, et al. :
Application No. 10/112,586 : DECISION ON REQUEST TO
Filed: March 29, 2002 : WITHDRAW AS ATTORNEY
For: MULTILEVEL PULSE POSITION :
MODULATION FOR EFFICIENT FIBER OPTIC :
COMMUNICATION

This is a decision on the request to withdraw as attorney/agent of record filed on September 4, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

Josephine Young is granted the request for withdraw of attorney/agent.
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.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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MARK A. LITMAN & ASSOCIATES, P.A.
YORK BUSINESS CENTER, SUITE 205
3209 WEST 76TH ST.
EDINA MN 55435

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Attila Grauzer et al :
Application No. 10/112,587 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. PA0664.AP.US :

This is a decision on the petition, filed January 24, 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 **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Files Repository.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 22 2004

DELTAGEN, INC.
1031 Bing Street
San Carlos CA 94070

In re Application of:
Allen et al.
Serial No.: 10/112,599
Filed: March 28, 2002
Attorney Docket No.: R-678

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR. § 1.181(a) and MPEP 711.03(c) filed on September 17, 2004, requesting withdrawal of the holding of abandonment of the above-identified application based on non –receipt of an Office action and to restore the application to a pending status.

A review of the file history shows that the Office mailed a first Office action, setting a three-month statutory time period for reply, to applicants on November 19, 2003. On August 27, 2004 the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that the Office action of November 19, 2003 was never received and provides as evidence thereof a copy of the attorney docket report where the Office action would have been entered if received, showing non-receipt of the Office action. Based on the evidence presented, it is concluded that applicants never received the Office action. In view thereof, the Notice of Abandonment mailed August 27, 2004, is vacated and the application is restored to pending status with the mailing date of this decision.

Applicants' petition is **GRANTED**. The application will be forwarded to the examiner for prompt mailing of a new Office action.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Jasemine C. Chambers
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/26/08

TO SPE OF : ART UNIT 2624 Perungavoor, Sathya Narayanan

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/112608 Patent No.: 7221807

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

_____
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: CHANGES ARE OK.

/Matthew C. Bella/ 2624
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

John P. O'Banion
O'BANION & RITCHEY LLP
400 Capitol Mall, Suite 1550
Sacramento, CA 95814

Mail Date: 04/21/2010

Applicant	: Hawley K. Rising III	: DECISION ON REQUEST FOR
Patent Number	: 7664830	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/112,610	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1617** 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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MAY - 6 2005

DELTAGEN, INC.
1031 Bing Street
San Carlos CA 94070

In re Application of:
Michael W. Leviten
Serial No.: 10/112,616
Filed: March 29, 2002
Attorney Docket No.: R-031

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition under 37 CFR. § 1.181(a) and MPEP 711.03(c) filed on March 4, 2005, requesting withdrawal of the holding of abandonment of the above-identified application based on non –receipt of an Office action and to restore the application to a pending status.

A review of the file history shows that the Office mailed an Office action, setting a 30 day statutory time period for reply, to applicants on January 14, 2004. On February 8, 2005, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicant states that the Office action of January 14, 2004 was never received and provides as evidence thereof a copy of the attorney docket report where the Office action would have been entered if received, showing non-receipt of the Office action. Based on the evidence presented, it is concluded that applicant never received the Office action. In view thereof, the Notice of Abandonment mailed February 8, 2005, is vacated and the application is restored to pending status with the mailing date of this decision.

Applicant's petition is **GRANTED**. The application will be forwarded to the examiner for prompt mailing of a new Office action.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES
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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

APR 30 2003

HUNTON & WILLIAMS
RIVERFRONT PLAZA, EAST TOWER
951 EAST BYRD STREET
RICHMOND, VA 23219

In re Application of :
William G. Dennis :
Serial No.: 10/112,625 : DECISION ON
Filed: March 28, 2002 : PETITON TO MAKE SPECIAL
For: Surgical Instrument Seal Assembly :

This is in response to applicants' petition filed October 22, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

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9405 SW GEMINI DRIVE
BEAVERTON OR 97008

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OFFICE OF PETITIONS

In re Application of
Geoffrey B. Rhoads et al
Application No. 10/112,647
Filed: March 28, 2002
Attorney Docket No. P0602

: 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 June 18, 2004, and supplemented on June 10, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications.

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 data sheet filed with the petition states; (for example, Application Nine rather than the application number). Also, in the amendment filed June 24, 2004, states that Application No. 09/433,104 is a continuation in part of Application No. 09/442,440, whereas Application No. 09/443,104 was filed prior to Application No. 09/442,440.

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/application data sheet[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:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

[1] *Note* 37 CFR 1.121

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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OCT 26 2005

OFFICE OF PETITIONS

In re Application of
Geoffrey B. Rhoads et al
Application No. 10/112,647
Filed: March 28, 2002
Attorney Docket No. P0602

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 3, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment and application data sheet filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional applications have been included in an application data sheet and 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 the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2625 for appropriate action on the amendment filed October 3, 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.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 4

HESKA CORPORATION
INTELLECTUAL PROPERTY DEPT.
1613 PROSPECT PARKWAY
FORT COLLINS, CO 80525

COPY MAILED

JUN 03 2002

OFFICE OF PETITIONS

In re Application of :
McDonald et al. :
Application No. 10/112,648 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. DI-13-C2 :

This is a decision on the petition filed April 22, 2002, to accord the above-identified application a filing date of March 28, 2002, instead of April 1, 2002.

Paragraph (c) of 37 CFR 1.10 sets forth procedures for filing a petition for a filing date where there is a discrepancy between the filing date initially accorded by the Office and the "date-in" entered by the USPS. Paragraph (d) of 37 CFR 1.10 sets forth procedures for filing a petition for a filing date where the "date-in" is incorrectly entered or omitted by the USPS.

Petitioner has failed to provide evidence establishing the "date-in" entered by the USPS. Specifically, petitioner has failed to provide the PTO with a copy of the express mail label. Since a copy of an express mail label has not been provided, petitioner has failed to establish the "date-in" entered by the USPS. Therefore, petitioner has failed to establish a discrepancy between the filing date accorded by the Office and the "date-in" entered by the USPS. In addition, petitioner has failed to establish that the "date-in" was incorrectly entered or omitted by the USPS.

A search of an USPS database indicates the package was enroute as of 11:12 pm on March 28, 2002. Therefore, the petition is **granted**. In the future, petitioner should take steps to receive an express mail label with a clear date-in, and not rely solely on possible database results.[1] If the Office receives a label with an omitted or illegible date-in, the Office will give the application a filing date of the date the package is received, unless a petition is filed. A petition involves additional work by petitioner and the Office, and also delays prosecution of the application into a patent.

Since relief has been granted under 37 CFR 1.10, a petition fee has not been charged to petitioner's deposit account.

---

[1] Paragraph (b) of 37 CFR 1.10 provides,

> Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of March 28, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MINTZ LEVIN COHN FERRIS GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

COPY MAILED

OCT 25 2004

OFFICE OF PETITIONS

In re Application of :
Chaucer Shah :
Application No. 10/112,657 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. 27347-511 (13320-011001) :

This is a decision on the petition, filed October 22, 2004,which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1634 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Date : October 25, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Shishir Shah
Application No. : 10/112,657
Filed : March 27, 2002

The above-identified application has been assigned Patent No. 6,808,886 and an issue date of October 26, 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 October 26, 2004:

"All reference to Patent No. 6,808,886 to Shishir Shah of Houston, TX for ARRAYS, COMPUTER PROGRAM PRODUCTS AND METHODS FOR IN SILICO ARRAY-BASED COMPARATIVE BINDING ASSAYS appearing in the Official Gazette of October 26, 2004 should be deleted since no patent was granted."

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Amster, Rothstein & Ebenstein
90 Park Avenue
New York, NY 10016

COPY MAILED

AUG 1 7 2004

OFFICE OF PETITIONS

In re Application of :
Jay et al. :
Application No. 10/112,659 :
Filed: March 30, 2002 :
Attorney Docket No. 30314.102 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed August 5, 2004.

37 CFR 1.28(c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

The fee deficiency submission under 37 CFR 1.28 is hereby **accepted.** The change of status to a large entity has been entered and made of record. This Notice is not intended to imply that an investigation was performed.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina L. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

IFW

UNITED STATES 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 - 9 2004

In re Application of	:	
Steven Drucker et al	:	NOTICE OF WITHDRAWAL
Serial No. 10/112,671	:	FROM ISSUE
Filed: March 29, 2002	:	UNDER 37 CFR 1.313(b)
For: BLOOD GLUCOSE TRACKING	:	
APPARATUS AND METHODS	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

Bruce M. Kisliuk, Director
Technology Center 1600

Gray, Cary, Ware, & Freidenrich, LLP
153 Townsend
Suite 800
San Francisco, CA 94107

cc: Allowed Files, PK3-910
Drafting Branch, PK3-910

RECEIVED
OCT 29 2004
OIPE/JCWS

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

IFW

AUG - 9 2004

In re Application of Steven Drucker et al Serial No. 10/112,671 Filed: March 29, 2002 For: BLOOD GLUCOSE TRACKING APPARATUS AND METHODS	:	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

Bruce M. Kisliuk, Director
Technology Center 1600

Gray, Cary, Ware, & Freidenrich, LLP
153 Townsend
Suite 800
San Francisco, CA 94107

cc: Allowed Files, PK3-910
Drafting Branch, PK3-910

RECEIVED
OCT 29 2004
OIPE/JCWS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Martha Ann Finnegan, Esq.
Cabot Corporation
157 Concord Road
Billerica MA 01821-7001

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DEC 0 8 2008

In re Patent of	:	
Jameel Menashi	:	
Application No. 10/112689	:	DECISION
Filed: 03/29/2002	:	ON PETITION
Attorney Docket Number:	:	
01023CIP	:	

This is a decision on the Petition to Withdraw Improper Holding of Abandonment, filed September 26, 2008. The petition is properly treated under 37 CFR 1.181.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed August 30, 2006, wherein the Examiner rejected claims 17-22, and 32-46. 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 Notice of Appeal in response to the Office action on November 30, 2006, and Appeal Brief on January 25, 2007. The Examiner filed an Answer on June 5, 2007. Applicant then filed a Reply Brief on August 3, 2007. The case was set before the Board of patent Appeals and interferences ("Board"), which, in a Decision mailed March 31, 2008, sustained the Examiner's rejection of claims 17-22, 32-37, and 39-46. The Board did not, however, sustain the Examiner's rejection of dependent claim 38.

The present petition

Applicant files the present petition and avers that as to dependent claim 38, in accordance with the MPEP 1214.06, the Examiner should reopen prosecution and permit Applicant to amend claim 38 into an independent claim.

The MPEP 1216(I) states:

> (B) If the Board or court affirms a rejection against an independent claim and reverses all rejections against a claim dependent thereon, after expiration of

the period for further appeal, the examiner should proceed in one of two ways:
(1) Convert the dependent claim into independent form by examiner's amendment, cancel all claims in which the rejection was affirmed, and issue the application; or
(2) Set a 1-month time limit in which appellant may rewrite the dependent claim(s) in independent form. Extensions of time under 37 CFR 1.136(a) will not be permitted. If no timely reply is received, the examiner will cancel all rejected and objected to claims and issue the application with the allowed claims only.

In view of the above, the petition to withdraw the holding of abandonment is granted.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being returned to Technology Center 1793 to withdraw the holding of abandonment and for further action by the Examiner consistent with the MPEP 1214.06.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: KILYK & BOWERSOX, P.L.L.C.
53 A EAST LEE STREET
WARRENTON, VA 20186

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

MICHAEL S. DOWNS
WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

COPY MAILED

MAR 19 2003

OFFICE OF PETITIONS

In re Application of
Walker et al.
Application No. 10/112,712
Filed: March 29, 2002
Attorney Docket No. 02-003
For: SYSTEM AND METHOD FOR ADVERTISING/SALES AT A GAMING DEVICE

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 12, 2002. Petitioner obtained a one-month extension of time to reply. Accordingly, the petition is timely filed. The application file was recently forwarded to the Office of Petitions for a decision on the petition. The Office sincerely apologizes for any inconvenience.

The petition is granted.

Petitioner has shown that Thomas M. Sparico, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

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

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)
6890256	2005-05-10	10112712	2002-03-29	02-003

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael Downs 50252/	Date (YYYY-MM-DD)	2009-07-07
Name	Michael D. Downs	Registration Number	50252

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. 6890256
Issue Date: May 10,2005
Application No. 10112712
Filed: March 29,2002
Attorney Docket No. 02-003

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 7,2009 ,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 7,2009 . 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

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.
10/112,743	04/02/2002	Yoshitomo Masuda	Q69352	3721

7590 12/15/2005

SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

EXAMINER	
TRAN, THAO T	

ART UNIT	PAPER NUMBER
1711	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER
	20051207

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

This is in response to the petion to restart the time period for response filed on October 14, 2005. Applicant has provided sufficient evidence that in fact the examiners answer was not received in a timely manner. The Petition is GRANTED. The time period for response will start with the mailing of this letter.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:03012006

DATE : March 1, 2006

TO SPE OF : ART UNIT 3733

SUBJECT : Request for Certificate of Correction on Patent No.: 6,989,031

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: Eduardo Robert **Art Unit** 3733

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

PHILIP G MEYERS
INTELLECTUAL PROPERTY LAW PC
1009 LONG PRAIRIE ROAD
SUITE 302
FLOWER MOUND TX 75022

COPY MAILED

DEC 12 2002

OFFICE OF PETITIONS

In re Application of :
Harres, et al. :
Application No. 10/112,780 : DECISION REFUSING STATUS
Filed: March 29, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 18525-0742 :

This is in response to the petition under 37 CFR 1.47(a), filed September 19, 2002 (Certificate of Mailing dated September 16, 2002).

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the nonsigning inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on March 29, 2002, without an executed oath or declaration. Accordingly, on May 16, 2002, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. To make timely this petition, applicant purchased a five month extension of time and included a Certificate of Mailing dated September 16, 2002. Accompanying the petition were: 1) a declaration signed by inventors Luiz Harres and Richard Hickey, but lacking a signature from inventor Harold Burkett, Jr.; 2) a copy of a cover letter to Burkett, dated June 3, 2002, transmitting the declaration and assignment papers for signature.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirement (1) above.

As to requirement (1), applicant has not demonstrated that a copy of the **entire application papers (specification, including claims and drawings)** were sent for the nonsigning inventor's review. The record only establishes that the declaration and assignment papers were forwarded for signature. Requiring that an inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted "ensures that the inventor is apprised of the application to which the oath or declaration is directed."[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

For

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] MPEP 409.03(d).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

PHILIP G MEYERS
INTELLECTUAL PROPERTY LAW PC
1009 LONG PRAIRIE ROAD
SUITE 302
FLOWER MOUND TX 75022

COPY MAILED

APR 2 9 2003

OFFICE OF PETITIONS

In re Application of
Harres, et al.
Application No. 10/112,780
Filed: March 29, 2002
Attorney Docket No. 18525-0742

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed April 14, 2003 (Certificate of Mailing dated April 8, 2003).

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the nonsigning inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on March 29, 2002, without an executed oath or declaration. Accordingly, on May 16, 2002, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(a) on September 19, 2002 and paid the surcharge for late filing of the declaration. To make timely this petition, applicant purchased a five month extension of time and included a Certificate of Mailing dated September 16, 2002. Accompanying the petition were: 1) a declaration signed by inventors Luiz Harres and Richard Hickey, but lacking a signature from inventor Harold Burkett, Jr.; 2) a copy of a cover letter to Burkett, dated June 3, 2002, transmitting the declaration and assignment papers for signature.

However, the petition was dismissed in a decision mailed on December 12, 2002. Rule 47 applicant did not show that a copy of the application papers had been sent to the nonsigning inventor for his review.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

On renewed petition, Rule 47 applicant has submitted a declaration signed by all of the inventors. However, the declaration is not acceptable because the alteration to the address of Harold G. Burkett, Jr. is not **initialed and dated.**[1] Regarding this, the Manual of Patent Examining Procedure states that it is "improper for anyone, including counsel, to alter, rewrite, or partly fill in any part of the application, including the oath or declaration, after execution of the oath or declaration by the applicant." Furthermore, 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."[2]

On renewed petition, applicant must submit a declaration in compliance with 37 CFR 1.63.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] "Any interlineation, erasure, cancellation or other alteration of the application papers...should be dated and initialed or signed by the applicant on the same sheet of paper." 37 CFR 1.52(c)(1).

[2] MPEP 605.04(a).

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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HAROLD G BURKETT JR
2203 HIGH POINT DRIVE
CARROLLTON TX 75007-1706

COPY MAILED

AUG 06 2003

OFFICE OF PETITIONS

In re Application of
Luiz C. Harres, Richard C. Hickey,
Harold G. Burkett, Jr.
Application No. 10/112,780
Filed: March 29, 2002
Title: METHOD AND APPARATUS FOR
MECHANIZED POCKET SWEEPING

LETTER

Dear Mr. Burkett:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 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 Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Edward Jorgenseon
Philip G. Meyers Law Office
1009 Long Prairie Road, Suite 302
Flower Mound, Texas 75022
(972)874-2852

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 14

PHILIP G MEYERS
INTELLECTUAL PROPERTY LAW PC
1009 LONG PRAIRIE ROAD
SUITE 302
FLOWER MOUND TX 75022

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AUG 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Harres, et al. :
Application No. 10/112,780 : DECISION ACCORDING STATUS
Filed: March 29, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 18525-0742 :

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed August 1, 2003.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on March 29, 2002, without an executed oath or declaration. Accordingly, on May 16, 2002, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(a) on September 19, 2002 and paid the surcharge for late filing of the declaration. To make timely this petition, applicant purchased a five month extension of time and included a Certificate of Mailing dated September 16, 2002. Accompanying the petition were: 1) a declaration signed by inventors Luiz Harres and Richard Hickey, but lacking a signature from inventor Harold Burkett, Jr.; 2) a copy of a cover letter to Burkett, dated June 3, 2002, transmitting the declaration and assignment papers for signature.

However, the petition was dismissed in a decision mailed on December 12, 2002. Rule 47 applicant did not show that a copy of the application papers had been sent to the nonsigning inventor for his review.

In response to the decision dismissing the petition, Rule 47 applicant filed a Request for Reconsideration on April 14, 2003 (made timely by including a Certificate of Mailing dated April 8, 2003 and by obtaining a two month extension of time). With the Request for Reconsideration, Rule 47 applicant submitted a declaration signed by inventor Burkett. However, the declaration contained an alteration to the address of Burkett that was not initialed and dated. Accordingly, the Request for Reconsideration was dismissed in a decision mailed on April 29, 2003.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Rule 47 applicant filed another Request for Reconsideration on August 1, 2003, made timely by including a Certificate of Mailing dated July 29, 2003, and by obtaining a one month extension of time. Rule 47 applicant has establish that Burkett refused to sign a declaration in compliance with 37 CFR 1.63 and 37 CFR 1.52(c)(1). According to Rule 47 applicant, a copy of the application papers was forwarded to Burkett on May 6, 2003 and again on May 29, 2003. However, no newly executed declaration from Burkett has been received.

Accordingly, the above-identified application is hereby accorded Rule 47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing legal representative 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 3600, Group Art Unit 3653, for docketing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/112,781	03/29/2002	Anthony J. Petrella	265280-69277	3289

23643 7590 10/21/2002

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

EXAMINER
KINCAID, KRISTINE LYNN

ART UNIT	PAPER NUMBER
2174	7

DATE MAILED: 10/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patent
United States Patent and Trademark Offic
Washington, D.C. 2023
www.uspto.go

OCT 10 2002

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

In re Application of :
Petrella, Anthony J., et al. :
Application No. 10/112,781 :
Filed: March 29, 2002 : Decision on Petition
For: Method, Apparatus, And Program For :
Analyzing A Prosthetic Device :

This is in response to the "Request To Accept CD-ROM Copy" treated as a request for waiver of the rules under 37 CFR 1.183, filed October 1, 2002 in the above referenced application.

As explained below, the petition under 37 CFR §1.183 is **GRANTED**.

The petition indicates that the CD-ROM is prior art distributed at a trade show, not a copy of material that is in some other media (e.g., paper). The petition indicates the CD-ROM contains audio and video information that cannot be converted to a paper medium to comply with 37 CFR §1.52(a). Finally, the petition notes the material on the CD-ROM is not one of the types permitted by 37 CFR §1.52(e) to be on CD-ROM.

Absent consideration of the CD-ROM applicants cannot comply with their duty of disclosure because they cannot otherwise provide a copy of the prior art for consideration by an examiner as is required by 37 CFR §1.98. Accordingly, the request to accept the CD-ROM and waive any portion of 37 CFR §1.52 that bars consideration of the CD-ROM is Granted.

Since the CD-ROM has already been checked for and found free of viruses by the Office of Initial Patent Examination, it will immediately be forwarded with the application file to Technology Center 2100 for examination.

As authorized in the petition, a petition fee of $130 is being charged to deposit account 10-0435(265280-69277). Any telephone inquiries regarding this matter should be directed to Michael L. Lewis at (703) 306-5585.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

RAYMOND SUN
12420 WOODHALL WAY
TUSTIN, CA 92782

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NOV 2 1 2003

OFFICE OF PETITIONS

In re Application of
Zheng, Yu
Application No. 10/112,819
Filed: March 29, 2002
Attorney Docket No. PAT-1443

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 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 January 3, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 4, 2003. A Notice of Abandonment was mailed on August 11, 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 3600 for further examination on the merits.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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SEP 15 2006
OFFICE OF PETITIONS

In re Application of :
Ekstrand :
Application No. 10/112, 869 : DECISION ON PETITION
Filed: April 2, 2002 : TO WITHDRAW
Attorney Docket No. 4441-0107P : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 24, 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 Terrell C. Birch on behalf of all attorneys of record who are associated with customer No. 02292.

All attorneys/agents associated with the Customer Number 02292 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: PER EKSTRAND
SODERMANNAGATAN 45 S-116 40
STOCKHOLM, SWEDEN

cc: GLENN PATENT GROUP
3475 EDISON WAY
SUITE L
MENLO PARK, CA 94025

UNITED STATES 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 9

ALVIN J. RIDDLES
BOX 34
CANDLEWOD ISLE
NEW FAIRFIELD CT 06812

In re Application of
Gareth Geoffrey Houghman et al.
Application No. 10/112,900
Filed: April 1, 2002
Attorney Docket No: YOR920010279US1

ON PETITION

This is a decision on the petition filed January 24, 2005 under 37 CFR 1.137(a)[1] to revive the above identified application, or in the alternative, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition to revive under 37 CFR 1.137(a) is **DISMISSED**.
The petition to withdraw the holding of abandonment is referred to Technology Center 2839 for consideration.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)".This is **not** a final agency decision.

This application became abandoned January 18, 2004 for failure to file a timely response to the non-Final Office Action mailed October 17, 2003. Accordingly, a Notice of Abandonment was mailed July 27, 2004.

Petitioners argue that the office action was incomplete as it only contained a cover sheet and not the usual summary and Examiner's input typically found in an office action.

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[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Further, petitioners argue that the lack of a more complete office action, left them with nothing to particularly respond to.

Pursuant to 37 CFR 1.137(a) however, the instant petition lacks items (2) of the regulation.

Effective December 8, 2004 the petition fee was set at $250.00 each, not $130.00 as was submitted with the petition. Therefore, and since no authorizations for debiting a deposit account for any deficiencies have been granted, the petition fee has not been paid. The fees due are the fees set at the time the application file is revived.

In view thereof, fees in the amount of $120.00 are due before a petition on the merits can be addressed and granted. The application will therefore remain in an abandoned status until such time as the balance of the petition fee has been paid.

In view of the petition praying in the alternative for relief under 37 CFR 1.181 to withdraw the holding of abandonment, and in view of the dismissal under the unavoidable standard, this fille will be forwarded to the Technology Center responsible for examining this application and for having sent out the office action, for review of the allegations made by the petitioner. If the technology center agrees that the abandonment should be withdrawn, there will be no need for petitioner to file a renewed petition under 37 CFR 1.137(b) and at that time may request a refund.

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

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALVIN J. RIDDLES
BOX 34
CANDLEWOD ISLE
NEW FAIRFIELD CT 06812

COPY MAILED

JUN 17 2005

OFFICE OF PETITIONS

In re Application of
Gareth Geoffrey Houghman et al. :
Application No. 10/112,900 : ON PETITION
Filed: April 1, 2002 :
Attorney Docket No: YOR920010279US1 :

This is a decision on the renewed petition filed May 12, 2005 under 37 CFR 1.137(a)[1] to revive the above identified application, or in the alternative, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition to revive under 37 CFR 1.137(a) is **DISMISSED**.
The petition to withdraw the holding of abandonment is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)".This is **not** a final agency decision.

This application became abandoned January 18, 2004 for failure to file a timely response to the non-Final Office Action mailed October 17, 2003. Accordingly, a Notice of Abandonment was mailed July 27, 2004. In a petition filed January 24, 2005, petitioner argued that the office action was incomplete as it only contained a cover sheet and not the usual summary and Examiner's input typically found in an office action. Further, petitioners argue that the lack of a more complete office action, left them without anything to particularly respond to. That petition could not be considered on its merits and was

---

[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

dismissed in a decision mailed March 9, 2005 because the petition fee as set forth in 37 CFR 1.17 was insufficient.

Pursuant to 37 CFR 1.137(a) however, the instant petition lacks items (3) of the regulation.

SHOWING OF UNAVOIDABLE DELAY

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.[2]

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.[3]

Petitioner's failure to respond immediately to the USPTO after receipt of the non-Final Office Action mailed October 17, 2003 raises the question as to whether the totality of the circumstances reaches a level of "unavoidable delay".[4] The cover sheet of the office communication sets a period for reply. Petitioner could have contacted the agency prior to

---

[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).

[4] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

the expiration of that period if pages of the document appeared to be missing and thus in the absence of doing so it can't be said that petitioner acted as a reasonably prudent person would have in the same situation. More than one year had elapsed before petitioner raised the argument that it didn't appear that the complete office action had been received.

The showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). As petitioner has presented no showing of unavoidable delay, the petition will be dismissed.

Additionally, a basis for withdrawing the holding of abandonment would be if an error on the part of the agency caused the application to become abandoned or if the office action mailed was never received. In this instance however, an office action was in fact received by the petitioners. As well, a review of the file record reveals a complete office action was mailed.

In view thereof, petitioner has not presented any information that would lead the agency to believe that a complete six page office action was not received.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[5], 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

---

[5]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)).

petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
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
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

MAIL

Paper No. 8

FISH & RICHARDSON
3300 DAIN RAUSCHER PLAZA
MINNEAPOLIS, MN 55402

JUL 21 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Yan Ke, et al.
Application No. 10/112,924
Filed: March 28, 2002

For: INTERNET SECURITY DEVICE AND METHOD

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on July 9, 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**.

Attorneys/agents listed in the Request to withdraw are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being returned to TC 2600 Technical Support Staff to update the correspondence address and then will be forwarded to the TC's central files area to await action in its regular turn.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

Cc:
Harrity & Snyder, LLP
11240 Waples Mill Road
Suite 300
Fairfax, VA 22030

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL 23 2003

Paper No. 8

In re Application of :
Johanna M. Swan *et al*, : DECISION ON PETITION
Application No. 10/112,961 :
Filed: March 28, 2002 :
Attorney Docket No. 042390P14131

This is a decision on the petition filed on June 17, 2003 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to timely file a proper reply to the Office letter mailed on October 10, 2002. The petition is considered under 37 CFR 1.181 and no fee is required.

The petition is granted.

Petitioners allege that a timely reply to the Office letter in question was in fact filed. Petitioners support this allegation by including a copy of the reply, and a copy of a filing receipt for the reply which shows that the reply was received in the Office on January 7, 2003. In view of this evidence, it is clear that the application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for action on the reply filed on January 7, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Stephen M. De Klerk
Blakely, Sokoloff, Taylor & Zafman LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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

TROJAN LAW OFFICES
9250 WILSHIRE BLVD
SUITE 325
BEVERLY HILLS, CA 90212

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JUL 19 2002

OFFICE OF PETITIONS

In re Application of :
Gary M. Zelman :
Application No. 10/112,970 : DECISION GRANTING PETITION
Filed: March 27, 2002 :
Attorney Docket No. 02-03-1887 :

This is a decision on the petition filed May 1, 2002, under 37 CFR 1.10(c) requesting that the above-cited application be accorded a filing date of March 27, 2002, rather than the presently accorded filing date of March 29, 2002.

Petitioner alleges that the application was deposited with the Express Mail Service on March 27, 2002. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EL32948342US (the same Express Mail label number was placed on the original application papers located in the official file) showing a "date-in" of March 27, 2002.

In view of the above, the petition is granted. A corrected filing receipt is enclosed showing the filing date for the application as March 27, 2002.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

James P. Hao
WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

MAILED

MAY 31 2005

Technology Center 2100

In re Application of:	)	
Sridhar Obilisetty	)	
Applications. 10/113,011	)	
Filed: March 28, 2002	)	**DECISION ON REQUEST FOR**
For: DEFINITION AND DISTRIBUTION	)	**WITHDRAWAL AS ATTORNEY**
OF BUSINESS RULES WHILE	)	
ENFORCING SYNTACTIC AND	)	
SEMANTIC VALIDATION		

This is a decision on the Request To Withdraw from Representation filed April 05, 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**.

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.

Michelle L. Tieson for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIW Jan-07

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Sridhar Obilisetty	:	
Application No. 10/113011	:	DECISION ON PETITION
Filed: 03/28/2002	:	
Attorney Docket No. 026507-000610US	:	

This is a decision on the petition filed on 19 October, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 25 June, 2005, for failure to timely submit a reply to the non-final Office action mailed on 24 March, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a)

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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)).

were obtained. Notice of Abandonment was mailed on 3 February, 2006.

Petitioner has filed an amendment in response to the non-final Office action.

This application is being referred to the Technology Center for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

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APR 10 2007

OFFICE OF PETITIONS

In re Application of
Steven B. McGowan
Application No. 10/113,039
Filed: 04-01-2002
Attorney Docket No. ITL.0682US (P13041)

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed on March 5, 2007, to withdraw the holding of abandonment.

On March 16, 2006, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely response, the Office mailed a Notice of Abandonment on January 12, 2007.

Petitioner asserts that a proper reply was timely filed. In support of the assertion, petitioner submits a copy of a return date-stamped postcard, acknowledging receipt of "Reply to Paper No. 20060310" in the USPTO on May 23, 2006. A copy of the previously filed reply accompanies the petition.

The Office has not located the original reply. Nevertheless, "[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." MPEP 503. Accordingly, it is concluded that the reply was filed timely in the USPTO on May 23, 2006, but was not matched with the application.

For the reasons stated above, the petition is **granted**. The holding of abandonment is hereby withdrawn and the application restored to pending status. The Office will accept the copy of the reply submitted with the petition on March 5, 2007, in place of the reply filed on May 23, 2006.

This matter is being referred to Technology Center Art Unit 2618 for appropriate action on the reply received with petition.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-15-09

TO SPE OF : ART UNIT 2192

SUBJECT : Request for Certificate of Correction for Appl. No.: 10113070 Patent No.: 7627860

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

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: _____

/Tuan Q. Dam/ 2192
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Jeffrey C. Hood
Meyertons,Hood,Kowert & Goetzel PC
P.O. Box 398
Austin, TX 78767

Mail Date: 04/21/2010

Applicant	: Jeffrey L. Kodosky	: DECISION ON REQUEST FOR
Patent Number	: 7627860	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/113,070	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1439** 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 : 09/02/09

TO SPE OF : ART UNIT 2183

SUBJECT : Request for Certificate of Correction for Appl. No.: 10113074 Patent No.: 7139897

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

xxx **Approved**	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: All changes approved.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Eddie P Chan/ SPE AU2183

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No.

ROSS J. OEHLER
AVENTIS PHARMACEUTICALS INC.
ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER NJ 08807

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MAY 23 2003

OFFICE OF PETITIONS

In re Application of	:	
Joseph Wettstein	:	
Application No. 10/113,078	:	ON PETITION
Filed: April 1, 2002	:	
Attorney Docket No. USAV01/0006	:	

This is a decision on the petition, filed by facsimile transmission on May 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 April 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) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1614 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

DANIEL L. GIRDWOOD
695 KENMOOR, S.E.
POST OFFICE BOX 2567
GRAND RAPIDS, MI 49501

COPY MAILED

DEC 0 2 2002

OFFICE OF PETITIONS

In re Application of:
David M. Gresham, James N. Ludwig,
Karl J. Mead, Karl Heinz Mueller and
Dale T. Kelley
Application No. 10/113,124
Filed: March 29, 2002
Title of Invention: BUILDING OUTFITTING SYSTEM WITH COMMON ACCESSORY-MOUNTING FEATURE

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the Petition for Filing Oath and Declaration when Inventor Refuses to Sign Under 37 CFR 1.47 filed June 19, 2002, which is being treated as a petition under 37 CFR 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). The delay in treating this petition is regretted.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on March 29, 2002, without a fully executed oath or declaration. Accordingly, on May 16, 2002 a "Notice to File Missing Parts of Nonprovisional Application" (hereinafter "Notice"), was mailed to Petitioner. The Notice required, in relevant part, a fully executed oath or declaration. Applicant was given two-months from the date of the Notice within which to file a fully executed oath or declaration. Extensions of time were available under 37 CFR 1.136(a).

Petitioner responds with the instant petition and Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor (37 CFR Section 1.47). The Statement of Facts avers that on at least two occasions the nonsigning inventor was telephoned, also on at least two accessions a letter was sent to the nonsigning inventors last known address. The Statement of Facts also "note that the telephone recording suggested that the telephone number [for the nonsigning inventor] was correct." The nonsigning inventor has yet to respond to any of the aforementioned efforts. *Statement of Facts* at p.1.

It is initially noted that 37 CFR 1.47(a) provides for two situations that allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s): where the nonsigning inventor cannot be found or reached after diligent effort; and where the nonsigning inventor refuses to sign the oath or declaration. In this instance, Petitioner provides that the telephone number of the nonsigning inventor appears correct. This

fact also allows the conclusion that the nonsigning inventor's address in also correct, such that the nonsigning inventor can be found or reached, but simply refuses to sign the oath or declaration.

Applicable Law:

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.

As to item (1), the applicant has failed to establish that the nonsigning inventor was ever presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

> 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.

MPEP 409.03(d).

Petitioner must send a copy of the entire application, including the specification, claims and drawings, along with the oath or declaration to the nonsigning inventor before refusal can be alleged.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TRASKBRITT, P.C./ ALLIANT TECH SYSTEMS
P.O. BOX 2550
SALT LAKE CITY UT 84110

MAILED

FEB 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Blair et al.	:	DECISION ON PETITION
Application No. 10/113,135	:	
Filed: March 29, 2002	:	
Atty Docket No. 2507-5745US(21544-US-04)	:	

This is a decision on the petition filed on December 30, 2008, under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.[1] This is also a decision on the petition under 37 CFR 1.182, filed on February 3, 2009, requesting expedited consideration of the above-referenced petition.

The petitions are before the Office of Patent Legal Administration for decision.

The petitions are **GRANTED**.

REVIEW OF FACTS

1. On March 29, 2002, the application was filed as an application for reissue of U.S. Patent No. 5,577,630.

2. On August 5, 2008, a final Office action was mailed, requiring a supplemental reissue oath or declaration.

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

3. On December 30, 2008, a supplemental reissue declaration was filed, naming Michael D. Blair, Richard Kunz, Mark J. Warner, Kevin Davis, Edward Wolcott, Darrel Turner, and John Bennett as joint inventors, signed by all inventors except joint inventor Kunz. Additionally, a two (2) month extension of time, and amendment after final rejection were filed.

4. The subject petition under 37 CFR 1.183 was also filed on December 30, 2008, whereby petitioners assert that joint inventor Richard Kunz has refused to sign the supplemental declaration. Specifically, counsel's paralegal, Debra L. Mitchell, states that, after a mailing to Kunz's last known address was returned as undeliverable, she located a new last known address for Kunz, and prepared and mailed a copy of the application and supplemental reissue declaration on two occasions to Kunz at the new address, but Kunz has failed to sign and return the declaration. In support, a copy of the cover letters transmitting the application and declaration to Kunz on September 29, 2008 and December 5, 2008, respectively, have been provided. Additionally, certified mailing receipts signed by Kunz for both mailings have been provided.

5. On February 3, 2009, a Notice of Appeal and the petition for expedited consideration under 37 CFR 1.182 were filed, along with a three (3) month extension of time.

DECISION ON PETITION UNDER 37 CFR 1.183 TO WAIVE §§ 1.67 AND 1.175

Petitioners state that joint inventor Kunz has constructively refused to sign the supplemental reissue declaration. Specifically, Kunz has failed to sign and return the supplemental reissue declaration.

In view of the efforts recounted in the petition to locate and obtain the signature of Richard Kunz on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Richard Kunz on the supplemental declaration filed on December 30, 2008.

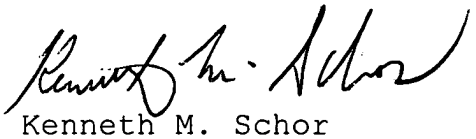
CONCLUSION

1. The petition is granted.

2. The application is being referred to Technology Center Art Unit 3781 for further processing.

3. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

4. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.



Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 7

Parsons Hsue & De Runtz, LLP
655 Montgomery Street
Suite 1800
San Francisco, CA 94111

COPY MAILED

AUG 29 2003

OFFICE OF PETITIONS

In re Application of
Jenn-Kuen Leong, et al.
Application No. 10/113,145
Filed: March 27, 2002
Attorney Docket No. M-12325 US

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(b) AND NOTICE
: RESETTING PERIOD FOR REPLY TO
: NONFINAL OFFICE ACTION
:

This is a decision on the petition, filed August 11, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 26, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 4, 2003 accompanies this decision on petition.

There is no indication that a reply to the non-final Office action of May 15, 2003 has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the non-final Office action of May 15, 2003 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to Marianne Morgan at (703) 306-3475.

This application is being forwarded to Technology Center Art Unit 2877 to await a reply to the non-final Office action, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.go

OCT 19 2005

RONALD V. DAVIDGE
SUITE 514
3300 UNIVERSITY DRIVE
CORAL SPRINGS, FL 33065

Paper No. 5

In re Application of
HAJIANPOUR, ZOYA
Appl No.: 10/113,162
Filed: April 01, 2002

DECISION GRANTING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed October 15, 2004 for failure to respond to the Office action of September 2, 2003. In view of the statements in the letter of October 25, 2004, the submission is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application. No fee is required.

The petition is granted.

In support of the request, petitioner has submitted a response with a certificate of mailing dated December 2, 2003. Petitioner has also submitted a statement attesting to the timely mailing as required by 37 CFR 1.8(b).

In view of the above, the Notice of Abandonment mailed October 15, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

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)
6649578	2003-11-18	10/113,181	2002-04-01	ROBCA39.001GUS

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	/raymond d. smith/	Date (YYYY-MM-DD)	2008-04-16
Name	Raymond D. Smith	Registration Number	55634

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. 6649578
Issue Date: November 18,2003
Application No. 10113181
Filed: April 1,2002
Attorney Docket No. ACC-001

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 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 April 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 an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

MORGAN & FINNEGAN
MARIA C.H. LIN
345 PARK AVENUE
NEW YORK, NY 10154-0053

COPY MAILED

FEB 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Chandrasekaran Ramasamy et al :
Application No. 10/113,211 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. 4347-4013 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed April 29, 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 30, 2002.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

COPY MAILED
JUN 24 2005
OFFICE OF PETITIONS

In re Application of :
Gautham, et al. :
Application No. 10/113,219 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. 4347-4014 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed June 21, 2004. A three month extension of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), the date of abandonment of this application is December 22, 2004. A Notice of Abandonment was mailed on April 1, 2005.

Please note, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1,020.00 extension of time submitted on April 6, 2005 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account no. 13-4500.

The file is being forwarded to Technology Center 1600, for review of the amendment, filed April 21, 2005, *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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SEP 1 6 2002
PATENT & TRADEMARK OFFICE

COPY OF PAPERS
ORIGINAL FILED

10113221 .091602

0300

Atty. Docket No.: 24518/2042 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Balasubramanian, Shankar	Examiner:	Unknown
Serial No.:	10/113,221		
Filed:	March 29, 2002	Group Art Unit:	1645
Entitled:	"Polynucleotide Sequencing"		
		Conf. No.:	5379

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8a

I hereby certify that this correspondence (and any paper or fee referred to as being enclosed) is being deposited with the United States Post Office as First Class Mail on the date indicated below in an envelope addressed to: Commissioner for Patents, Office of Initial Patent Examination, Customer Service Center, Washington, D.C. 20231.

Kathleen Williams
Name of Person Mailing Paper

Signature of Person Mailing Paper

Commissioner for Patents
Office of Initial Patent Examination
Customer Service Center
Washington, D.C. 20231

TRANSMITTAL LETTER

Enclosed for filing the above-identified patent application, please find the following documents:

1. Amendment & Response to Notice to File Corrected Application Papers;
2. Abstract of Application on separate sheet
3. Copy of Notice to File Corrected Application Papers; and
4. Return Post Card.

The Commissioner for Patents is hereby authorized to charge any additional fees or credit any overpayment in the total fees to Deposit Account No. 16-0085, Reference 24518/2042. A duplicate of this transmittal letter is enclosed for this purpose.

Respectfully submitted,

Date: 9/11/02

Name: Kathleen Williams
Registration No.: 34,380
Customer No.: 29933
Palmer & Dodge LLP
111 Huntington Avenue
Boston, MA 02199-7613
Tel: 617-239-0100

OIPE JC14
SEP 16 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/113,221	03/29/2002	Shankar Balasubramanian	24518/2042

CONFIRMATION NO. 5379

FORMALITIES LETTER

OC000000008566993

29933
PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON, MA 02199

Date Mailed: 08/02/2002

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a)

The required item(s) identified below must be timely submitted to avoid abandonment:

- Abstract must be on a separate sheet.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

Docket # Dorsey
Response due File Corrected Papers
Statutory period 10/2/02 (2/2/03
Palmer & Dodge LLP (ESP)
Patent Department

RECEIVED
AUG 06 2002
PATENT DEPT.
PALMER & DODGE LLP

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/28/2010

Applicant	: Jonathan E. Shopiro	: DECISION ON REQUEST FOR
Patent Number	: 7680875	: RECALCULATION of PATENT
Issue Date	: 03/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/113,235	: OF WYETH
Filed	: 04/01/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANTONY P. NG
BRACEWELL & PATTERSON LLP
7600B NORTH CAPITAL OF TEXAS HIGHWAY
SUITE 350 LAKEWOOD ON THE PARK
AUSTIN TX 78731-1168

COPY MAILED
MAY 25 2006
OFFICE OF PETITIONS

In re Application of :
Toriti et al. :
Application No. 10/113,242 : ON PETITION
Filed: April 1, 2002 :
Title: Method for Simulating a Celestial Sphere :
in Real-Time within a Data Processing System

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed May 8, 2006.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to file a response to a non-final Office Action which was mailed on January 24, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on April 25, 2005. A Notice of Abandonment was mailed on August 8, 2005.

Petitioner states the non-final Office Action mailed on September 7, 2005 was not received because the Office Action was mailed to the incorrect correspondence address. Petitioner contends a change of address was received on April 19, 2006. In support of the petition, petitioner has provided a post card receipt and a copy of the status and change of correspondence address.

Petitioner's argument has been considered but deemed to be unpersuasive. A review of the change of correspondence request shows that the request was signed by attorney

James E. Bradley. Further review of the application papers shows that attorney Bradley is not of record for the above-identified application. Pursuant to 37 CFR 1.33 (a) a change of correspondence address may only be signed by an attorney or agent who is not of record if an executed oath or declaration has not been filed in the application. An executed declaration was filed on April 1, 2002. Further petitioner is reminded the Office prohibits an appointment of a specified law firm because the Office cannot ascertain from its records whether a particular practitioner submitting a paper to the Office is associated with the law firm specified in an appointment.

If petitioner believes that Attorney Bradley was given powers to prosecute the application and such papers were filed with the Office, petitioner should submit such evidence on renewed petition. Otherwise, petitioner may wish to submit a petition under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: James E. Bradley
Bracewell & Patterson, LLP
P.O. Box 61389
Houston, Texas 77208

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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ANTONY P. NG
BRACEWELL & PATTERSON LLP
7600B NORTH CAPITAL OF TEXAS HIGHWAY
SUITE 350 LAKEWOOD ON THE PARK
AUSTIN TX 78731-1168

COPY MAILED

OCT 12 2006

OFFICE OF PETITIONS

In re Application of :
Toriti et al. :
Application No. 10/113,242 : ON PETITION
Filed: April 1, 2002 :
Title: Method for Simulating a Celestial Sphere :
in Real-Time within a Data Processing System

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 19, 2006.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to file a response to a non-final Office Action which was mailed on September 7, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 8, 2005. A Notice of Abandonment was mailed on April 20, 2006.

Petitioner states the non-final Office Action mailed on September 7, 2005 was not received because the Office Action was mailed to the incorrect correspondence address. Petitioner contends a change of address was received on April 19, 2006. In support of the petition, petitioner has provided a post card receipt and a copy of the status and change of correspondence address. On renewed petition, petitioner states a change of address was filed on April 15, 2004.

Petitioner's argument has been considered but deemed to be unpersuasive. A review of

record shows the Office is not in receipt of a request to change the correspondence address purportedly filed on or about April 15, 2004.

The associate power of attorney submitted with the instant petition will not be entered. Pursuant to MPEP 402.02, effective June 25, 2004, the associate power of attorney practice has been eliminated. The Office no longer accepts a power of attorney signed by a principal to name an associate power of attorney. An appointment of an associate power of attorney filed on or after June 25, 2004 will not be accepted.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: James E. Bradley
Bracewell & Patterson, LLP
P.O. Box 61389
Houston, Texas 77208

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OFFICE OF PETITIONS

In re Application of
Toriti et al.
Application No. 10/113,242
Filed: April 1, 2002
Title: Method for Simulating a Celestial Sphere in Real-Time within a Data Processing System

ON PETITION

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The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to file a response to a non-final Office Action which was mailed on September 7, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 8, 2005. A Notice of Abandonment was mailed on April 20, 2006.

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Petitioner's argument has been considered but deemed to be unpersuasive. A review of

record shows the Office is not in receipt of a request to change the correspondence address purportedly filed on or about April 15, 2004.

The associate power of attorney submitted with the instant petition will not be entered. Pursuant to MPEP 402.02, effective June 25, 2004, the associate power of attorney practice has been eliminated. The Office no longer accepts a power of attorney signed by a principal to name an associate power of attorney. An appointment of an associate power of attorney filed on or after June 25, 2004 will not be accepted.

Further correspondence with respect to this matter should be addressed as follows:

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DEC 19 2006
OFFICE OF PETITIONS

In re Application of
Toriti et al.
Application No. 10/113,242
Filed: April 1, 2002
Title: Method for Simulating a Celestial Sphere in Real-Time within a Data Processing System

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2006 to revive the above-identified application.

This petition is hereby **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to file a response to a non-final Office Action which was mailed on September 7, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 8, 2005. A Notice of Abandonment was mailed on April 20, 2006. Petitions under 37 CFR 1.181 were dismissed on May 25, 2006, October 12, 2006 and October 25, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that "the entire delay in filing the required reply from the due date for the

reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional"; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

The instant petition lacks item (1). Petitioner must submit a reply to the September 7, 2006 Office Action with the renewed petition. A copy of the Office Action is enclosed for petitioner's convenience.

The change of correspondence address has been entered and made of record.

Further Correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 272-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

enclosure

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/113,242	04/01/2002	Russell G. Torti	TA-00538	5753

7590 09/07/2005

ANTONY P. NG
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EXAMINER	
LUU, CUONG V	
ART UNIT	**PAPER NUMBER**
2128	

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/113,242	TORTI ET AL.	
	Examiner	Art Unit	
	Cuong V. Luu	2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 April 2002*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *4/1/2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claims 1-15 have been examined. Claims 1-15 have been rejected.

Claim Objections

1. Claim 15 is objected to because of the following informalities:

There is an apparent typographical error when the inventor cites "the data processing system of claim 1". It should be "the data processing system of claim 11".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 10, and 15 are rejected under second paragraph of 35 U.S.C. 112.

2. As per claim 5, the inventors claim an equation:

Tilt angle = 90(degrees) – longitude

Which is described as to calculate tilt angle using the latitudinal position of the observer (p. 9, line 5). It is not clear to the examiner how longitude position can be used in an equation using the latitudinal position of the observer. This renders the claim indefinite.

3. As per claim 10, this claim has the same limitations as claim 5. Therefore, they are rejected for the same reasons.

4. As per claim 15, this claim has the same limitations as claim 5. Therefore, they are rejected for the same reasons.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention

was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 6, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher (Astronomical Times, January, 30, 1996, website http://www.cv.nrao.edu/~rfisher/Ephemerides/times.html) and in view of Fisher (Earth Rotation and Equatorial Coordinates, February 5, 1996, website http://www.cv.nrao.edu/~rfisher/Ephemerides/earth_rot.html#polar_motion).

1. As per claim1, Fisher teaches a method for simulating a celestial sphere in real-time within a data processing system, said method comprising:

obtaining date, time, and longitude/latitude position information of an observer on earth (p. 2, paragraphs 1-2; p. 3, paragraph 6-7);

determining a Julian Day from said date information (p. 4, paragraph 8);

determining Greenwich mean sidereal time (p. 4, paragraph 8);

determining a local mean sidereal time (p. 5, paragraph 3);

Fisher, in the article "Astronomical Times", does not teach determining a tilt angle of said celestial sphere about a celestial equator using said latitude position of said observer nor utilizing the above-determined values to yield a real-time representation of a position of said celestial sphere relative to said observer on earth.

However, in the article "Earth Rotation and Equatorial Coordinates", Fisher teaches:

determining a tilt angle of said celestial sphere about a celestial equator using said latitude position of said observer (p. 2; paragraph 4-5. Declination is defined as the arc

distance from celestial equator either north or south to the star, along the hour circle given by right ascension; comparable to latitude. Therefore, the examiner interprets determining declination as determination of tilt angle of said celestial sphere about a celestial equator using said latitude position of said observer); and

utilizing the above-determined values to yield a real-time representation of a position of said celestial sphere relative to said observer on earth (p. 4, paragraph 10; p. 5, paragraph 1).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Fisher in article "Astronomical Times" and Fisher in the article "Earth Rotation and Equatorial Coordinates". Fisher's teaching of determining a tilt angle of said celestial sphere about a celestial equator using said latitude position of said observer and utilizing the above-determined values to yield a real-time representation of a position of said celestial sphere relative to said observer on earth would have helped users to determine real-time representation of a position of said celestial sphere more accurately with additional information.

2. As per claim 6, the limitations in this claim include those already discussed in claim 1 plus a computer program product which Fisher teaches in the article Astronomical a computer program product residing on a computer usable medium for simulating a celestial sphere in real-time within a data processing system (p. 5, paragraph 5). They are, therefore, rejected for the same reasons.

3. As per claim11, the computer program product in claim 6 needs a data processing system to work. Therefore, the computer program product inherits a data processing system. As a result, the limitations of this claim are rejected for the same reasons.

Claims 2-4, 7-9, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher (Astronomical Times, January, 30, 1996, website http://www.cv.nrao.edu/~rfisher/Ephemerides/times.html) as applied to claims 1, 6, and 11, in view of Fisher (Earth Rotation and Equatorial Coordinates, February 5, 1996, website http://www.cv.nrao.edu/~rfisher/Ephemerides/earth_rot.html#polar_motion) and further in view of Vanni Tomezzoli (Algorithms and Formulas, March 17, 2001, website http://xoomer.virgilio.it/vtomezzo/sunriset/formulas/algorythms.html).

4. As per claim2, Fisher does not teach determining a Julian Day is performed by

JD = INT[365.25 x year] + INT [30.6001 x (month + 1)] - 15 + (1720996.5 + day + UT)/24

where year=Gregorian year in four digits, month=month+12; if month <= 2, then year=year-1; and UT=the universal time at Greenwich, England.

However, Tomezzoli teaches this limitation (p. 3, paragraphs 1-3).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Fisher and Tomezzoli. Tomezzoli's teaching of determining a Julian Day based on the above equation would have helped users to calculate Julian day accurately to perform simulation of celestial sphere.

5. As per claim3, Fisher teaches determining a Greenwich mean sidereal time is performed by

θ_0 = C2- |C|

where C=280.46061837+360.98564736629 x (JD-2455198.0)+(0.000387933 x t**2) - (t**3/387100000);

t=(JD-2455198.0)/36525.0;

JD=the previously calculated Julian Day;

C2=Ceil[C1] x 360; and

C1= |C/360|.

(p. 4, paragraphs 7-8. This is a simplified form of the above equation).

6. As per claim4, Fisher teaches determining a local mean sidereal time is performed by

$H = \theta_0 -$ longitude

where θ_0 is said Greenwich mean sidereal time, and longitude is said observer's longitudinal position in degrees (p. 5, pargraph2).

7. As per claim7, Fisher teaches the computer program product (p. 5, paragraph 5); however, Fisher does not teach program code means for determining a Julian Day based on the specific formula below:

JD = INT[365.25 x year] + INT [30.6001 x (month + 1)] - 15 + (1720996.5 + day + UT)/24

where year=Gregorian year in four digits, month=month+12; if month <= 2, then year=year-1; and UT=the universal time at Greenwich, England.

Tomezzoli teaches the above equation as discussed in claim 2.

It would have been obvious to one of ordinary skill in the art to combine the teachings of Fisher and Tomezzoli. Tomezzoli's teaching of determining a Julian Day based on the

above equation would have helped users to calculate Julian day faster and accurately to perform simulation of celestial sphere.

8. As per claim8, Fisher teaches the computer program product of claim 6, wherein said program code means for determining a Greenwich mean sidereal time is performed by

θ_0 = C2- |C|

where C=280.46061837+360.98564736629 x (JD-2455198.0)+(0.000387933 x t**2) - (t**3/387100000);

t=(JD-2455198.0)/36525.0;

JD=the previously calculated Julian Day;

C2=Ceil[C1] x 360; and

C1= |C/360|.

(p. 4, paragraphs 7-8; p. 5, paragraph 5).

9. As per claim9, Fisher teaches the computer program product of claim 6, wherein said program code means for determining a local mean sidereal time is performed

$H = \theta_0 - \text{longitude}$

where θ_0 is said Greenwich mean sidereal time, and longitude is said observer's longitudinal position in degrees (p. 5, pargraph2; p. 5, pargraph2).

10. As per claim12, similar to discussions in claim 11, these limitations have already been discussed in claim 7. They are, therefore, rejected for the same reasons.

11. As per claim13, similar to discussions in claim 11, these limitations have already been discussed in claim 8. They are, therefore, rejected for the same reasons.

12. As per claim14, similar to discussions in claim 11, these limitations have already been discussed in claim 9. They are, therefore, rejected for the same reasons.

Claims 5, 10, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher (Astronomical Times, January, 30, 1996, website http://www.cv.nrao.edu/~rfisher/Ephemerides/times.html) as applied to claims 1, 6, and 11, in view of Fisher (Earth Rotation and Equatorial Coordinates, February 5, 1996, website http://www.cv.nrao.edu/~rfisher/Ephemerides/earth_rot.html#polar_motion) and further in view of Vik Dhillon (The Horizontal Coordinate System, Sept 23, 1999, http://www.shef.ac.uk/physics/people/vdhillon/teaching/phy105/phy105_horizontal.html)

13. As per claim 5, Fisher does not teach determining a tilt angle of said celestial sphere is performed by

Tilt angle = 90(degrees) – latitude

However, Vik Dhillon teaches this feature (p. 2, paragraph1).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Fisher and Dhillon. Dhillon's teaching of determining a tilt angle of said celestial sphere based on the equation above would have helped users determine a real-time representation of a position of said celestial sphere relative to said observer on earth according to his latitudinal position more accurately.

14. As per claim10, the limitations of this claim have already been discussed in claim 5. They are, therefore, rejected for the same reasons.

15. As per claim15, the limitations of this claim have already been discussed in claim 5. They are, therefore, rejected for the same reasons

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cuong V. Luu whose telephone number is 571-272-8572. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jean Homere, can be reached on (571)272-3780. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. An inquiry of a general nature or relating to the status of this application should be directed to the TC2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vhaylhan
Patent Examiner
Au: 2128

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Toriti et al.
Application No. 10/113,242
Filed: April 1, 2002
Title: Method for Simulating a Celestial Sphere in Real-Time within a Data Processing System

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 13, 2007 to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a non-final Office Action which was mailed on September 7, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 8, 2005. A Notice of Abandonment was mailed on April 20, 2006. Petitions under 37 CFR 1.181 were dismissed on May 25, 2006, October 12, 2006, October 25, 2006 and December 19, 2006.

The petition is **Granted**.

The office hereby acknowledges the receipt of the amendment and drawings.

This application is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

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SUITE 500
PASADENA CA 91105

COPY MAILED

JAN 21 2003

OFFICE OF PETITIONS

In re Application of	:	
Brian D. Hunt et al	:	
Application No. 10/113,247	:	DECISION ON PETITION
Filed: April 1, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 47767/RAG/C766	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed by facsimile transmission on January 2, 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 **Granted**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(i) and the date the claim was filed was unintentional; and

(3) the reference to the prior filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on April 1, 2002 (March 30, 2002 was on a Saturday), within twelve months of the filing date of the prior provisional application, Application No. 60/280,579, which was filed on March 30, 2001, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

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. 60/280,579 is granted as of the date of filing the petition.

The granting of the petition to accept the delayed benefit claim to the prior 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 application. In order for the instant application to be entitled to the benefit of the prior application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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 2817 for processing the amendment filed November 27, 2002 and for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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OCT 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Tao Chen et al :
Application No. 10/113,257 : DECISION ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. 020367 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed March 9, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on June 10, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $790 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of March 9, 2006 is accepted as being unintentionally delayed.

The rule at 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

This application is being referred to Technology Center AU 2618 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received March 21, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6548459	2003-04-15	10113285	2002-04-02	145865.00014

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2007-06-15
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

In re Patent No. 6548459
Issue Date: April 15,2003
Application No. 10113285
Filed: April 2,2002
Attorney Docket No. 145865.00014

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 15,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 15,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 05-02

Paper No. 4

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

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MAY 22 2002

OFFICE OF PETITIONS

In re Application of	:	
Johannes Averdung	:	DECISION GRANTING
Application No. 10/113,292	:	PETITION
Filed: 2 April, 2002	:	
Attorney Docket No. 221154US0	:	

This is a decision on the petition, filed by facsimile on 13 May, 2002, requesting that the above-identified application, without drawings, be accorded a filing date of 2 April, 2002.

The application was filed on 2 April, 2002, without drawings.[1] Accordingly, on 24 April, 2002, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, on 13 May, 2002, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented. Petitioners request that the application, without drawings, be accorded a filing date of 2 April, 2002.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] A review of the record

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] MPEP 601.01(f).

reveals that Claims 1-27 are method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. No petition fee is necessary.

The "Notice of Incomplete Nonprovisional Application" mailed on 13 May, 2002, was sent in error and is hereby vacated to the extent that it stated that the application was incomplete because the application was deposited without drawings.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 2 April, 2002, and for an indication on the bib-data sheet that no (0) sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at 703.308.6918.

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
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ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA, PA 19106-2399

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AUG 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Biwang Jiang et al :
Application No. 10/113,311 : DECISION GRANTING PETITION
Filed: April 1, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. A01354 :

This is a decision on the petition, filed August 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 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 1713 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 8

JOHN L. ADAIR
GARY CARY WARE & FREIDENRICH LLP
1221 SOUTH MOPAC EXPRESSWAY, SUITE 400
AUSTIN, TX 78746-6875

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JAN 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Ling Z. Zhao et al :
Application No. 10/113,322 :
Filed: March 29, 2002 :
Attorney Docket No. BMC1130-2 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 2100.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 23 2004

Director's Office
Group 3700

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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In re Application of
Gary S. Lind
Application No. 10/113,339
Filed: March 28, 2002
Attorney Docket No. NOVE100012000

: DECISION ON PETITION

This is a decision on the petition filed on July 19, 2004, with a 37 CFR 1.8(a) certificate of mailing dated July 14, 2004, by which petitioner requests that the finality of the rejection dated May 14, 2004 be held to have been premature, and requesting a Notice of Allowance or reopening of prosecution. This petition is being considered under 37 CFR 1.181, and no fee is required for the petition. A refund of the $130.00 fee tendered with the petition will be credited to deposit Account No. 04-0566.

The petition is granted.

The relevant portion of the record shows that on October 22, 2003, petitioner filed an amendment in response to a final rejection dated July 29, 2003. This amendment was entered in the record as a result of the filing of a Request for Continued Examination (RCE) on November 3, 2003. The examiner considered the amendment, and promulgated a nonfinal rejection on November 18, 2003. The sole basis for that rejection was that the claims failed to comply with 35 USC § 112, first paragraph because

> Applicant's disclosure as filed did not disclose an apparatus comprising a chemical vapor deposition chamber having a showerhead. Under Description of Related Art, applicant disclosed that conventional chemical vapor deposition occurred in a reaction process chamber or reactor chamber. Applicant failed to disclosure that his invention, "the shower head apparatus", included a chemical vapor deposition chamber.

Thereafter, petitioner filed a reply on February 24, 2004 in which the rejected claims were amended. On May 14, 2004, the examiner promulgated the final rejection complained of. The sole basis for the rejection was that the claims failed to comply with 35 USC § 112, second paragraph because:

> ... the recitations of 'a tapered post' and 'a tapered annular opening' appear to be a double inclusion of the 'showerhead.'

However, the record further shows that the limitations which the examiner held to be indefinite under 35 USC § 112, second paragraph when the claims were finally rejected were present in the claims when the claims were rejected on November 18, 2003, and these limitations were not amended or added in the February 24, 2004 amendment. Yet the limitations that the examiner regarded as being indefinite under 35 USC § 112, second paragraph in the May 14, 2004 final action had not been considered by the

examiner to be indefinite under 35 USC § 112, second paragraph in the November 18, 2003 nonfinal action.

It appears, therefore, that the final rejection of May 14, 2004 on a grounds not applied in the previous Office action was premature because it was not necessitated by an amendment by petitioner. Merely because the claims were amended in some way, the examiner is not free to make the next action final on a completely different grounds of rejection. Rather, the amendment to the claims must necessitate the application of the new grounds of rejection. See MPEP § 706.07(a). In this case, the amendment clearly did not necessitate the 35 USC § 112, second paragraph rejection that was made final.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Delio & Peterson
121 Whitney Avenue
New Haven, CT 06510

SPE D. Scherbel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/113,339

Paper No.: _____

DATE : 6/15/05

TO SPE OF : ART UNIT 3752

SUBJECT : Request for Certificate of Correction on Patent No.: 6883733

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 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:

_____

_____

_____

_____

_____

3753

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

Paper No. None

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

COPY MAILED

MAY 12 2005

OFFICE OF PETITIONS

In re Application of :
Fahrettin L. Degertekin et al. :
Application No. 10/113,362 :
Filed: March 29, 2002 :
Attorney Docket Number: 062020-1030 :
Title: SYSTEM AND METHOD FOR SURFACE PROFILING :

DECISION ON PETITION UNDER 37 C.F.R. §1.183

Background

This is a decision on the petition filed October 29, 2004, pursuant to 37 C.F.R. §1.183, requesting that 37 C.F.R. §1.78(a)(5)(i) be waived so that Petitioner may receive the benefit of a previously filed provisional application without having to identify the provisional application by the provisional application serial number. By filing this petition, Petitioner wishes to avoid having to file a petition under 37 C.F.R. §1.78(a)(6).

The application was filed on March 29, 2002, and the specification on filing claimed benefit to application no. 60/279,275. With this petition, Petitioner has indicated that this serial number contains a typographical error, and that the correct serial number for the provisional application is 60/279,575. Petitioner has included the $130 petition fee.

Petitioner maintains that this constitutes an extraordinary situation where justice requires the waiver of rule 37 C.F.R. §1.78(a)(5)(i) for two reasons; 35 U.S.C. §120 does not require that the correct serial number be listed for the provisional

application[1], and; it is unjust to require Petitioner to submit a petition under 37 C.F.R. §1.78(a)(6).

Applicable Statue and Rules

35 U.S.C. §119(e) sets forth:
(1) An application for patent filed under section 111(a) or section 363 of this title for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in a provisional application filed under section 111(b) of this title, by an inventor or inventors named in the provisional application, shall have the same effect, as to such invention, as though filed on the date of the provisional application filed under section 111(b) of this title, if the application for patent filed under section 111(a) or section 363 of this title is filed not later than 12 months after the date on which the provisional application was filed and if it contains or is amended to contain a specific reference to the provisional application. No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this subsection during the pendency of the application.

(2) A provisional application filed under section 111(b) of this title may not be relied upon in any proceeding in the Patent and Trademark Office unless the fee set forth in subparagraph (A) or (C) of section 41(a)(1) of this title has been paid.

(3) If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the period of pendency of the provisional application shall be extended to the next succeeding secular or business day.

37 C.F.R. §1.78(a)(4), (5), and (6) provide:

(4) A nonprovisional application, other than for a design patent, or an international application designating the United States of America may claim an invention disclosed in one or more prior-filed provisional applications. In order for an application to claim the benefit of one or more prior filed provisional applications, each prior-filed provisional application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of

---

1 Petitioner will note that 35 U.S.C. §120 does not apply to the present application, as the present application claims priority to several provisional applications. 35 U.S.C. §120 applies to applications which claim priority to previously filed non-provisional applications, whereas 35 U.S.C. §119(e) governs applications which claim priority to provisional applications. It will be assumed that Petitioner inadvertently cited the incorrect statute. If this is not a correct interpretation, Petitioner should contact the Office.

35 U.S.C. 112. In addition, each prior-filed provisional application must be entitled to a filing date as set forth in § 1.53(c), and the basic filing fee set forth in § 1.16(k) must be paid within the time period set forth in § 1.53(g).

(5)
(i) 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 to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed provisional application. These time periods are not extendable. Except as provided in paragraph(a)(6) of this section, the failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(e) to such prior-filed provisional application. The time periods in this paragraph do not apply if the later-filed application is:

(A) An application filed under 35 U.S.C. 111(a) before November 29, 2000; or

(B) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.

(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§1.76), or the specification must contain or be amended to contain such reference in the first sentence following the title.

(iv) If the prior-filed provisional application was filed in a language other than English and an English-language translation of the prior-filed provisional application and a statement that the translation is accurate were not previously filed in the prior-filed provisional application or the later-filed nonprovisional application, applicant will be notified and given a period of time within which to file an English-language translation of the non-English-language prior-filed provisional application and a statement that the translation is accurate. In a pending nonprovisional application, failure to timely reply to such a notice will result in abandonment of the application.

(6) If the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii) of this section, the claim under

35 U.S.C. 119(e) for the benefit of a prior filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application must be accompanied by:

(i) The reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, unless previously submitted;

(ii) The surcharge set forth in § 1.17(t); and

(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section 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.

37 C.F.R. §1.183 provides:

In an extraordinary situation, when justice re-quires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17(h).

Analysis

In order to submit a grantable 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.

Petitioner has alleged that it is unjust to require him to seek relief under 37 C.F.R. §1.78(a)(6) "because of a clerical (sic) in which a single digit in the provisional application serial number was in error."

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 proper claim for priority of the provisional application (including the correct serial number of the provisional application) as within the time period set forth in 37 CFR 1.78(a)(5)(ii) was a circumstance entirely within Petitioner's control, and the typographical error which resulted in the failure to make the

proper priority claim 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[2].

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[3]. 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[4]. Rather, as petitioner failed to comply with the provisions of 37 CFR 1.78(a)(5)(i), (ii) and (iii), this is not an "extraordinary situation" where "justice requires" an extraordinary remedy.

Petitioner has further set forth that there is no requirement that the specification of the nonprovisional application list the serial number for the provisional application, and that a recitation of the correct title and filing date will constitute the "specific reference" required by 35 U.S.C. §119(e) in the absence of the proffering of the correct serial number. Petitioner is incorrect. In order to specifically reference a provisional application, the serial number of the same must be set forth. As the correct serial number was not given, the specific reference thereto was not supplied on filing.

It follows that Petitioner's circumstances are not extraordinary, and justice fails to require waiver of rule 37 C.F.R. §1.78(a)(5)(i).

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2 U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983).
3 See Helfgott & Karras, P.C. v. Dickinson, 209 F.3d 1328, 54 USPQ2d 1425 (Fed. Cir. 2000).
4 See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail"), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir.1996); Nitto Chemical Industry. Co., Ltd. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (Counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule).

Conclusion

The petition is **DISMISSED.**

If Petitioner wishes to claim the benefit of provisional application number 60/279,575, a petition under 37 C.F.R. §1.78(a)(6) must be filed.

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. §1.183." 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.

Any renewed petition may be submitted by mail[5], hand-delivery[6], or facsimile[7].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

7 (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, which could be as much as one month.

UNITED STATES 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

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

COPY MAILED

JAN 30 2006

OFFICE OF PETITIONS

In re Application of
Fahrettin L. Degertekin et al.
Application No. 10/113,362
Filed: March 29, 2002
Attorney Docket Number: 062020-1030
Title: SYSTEM AND METHOD FOR SURFACE PROFILING

DECISION ON PETITION UNDER 37 C.F.R.§1.78(a)(6)

This is a decision on the petition under 37 CFR §1.78(a)(6), filed May 31, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The

Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-fiiled provisional applications as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional applications, application numbers 60/356,942, filed on February 13, 2002, 60/356,960, filed on February 13, 2002, and 60/279,575, filed on March 29, 2001, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional 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)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional applications satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-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. §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 provisional applications, accompanies this decision on petition.

The application is being forwarded to Technology Center Art Unit 2877 for appropriate action on the amendment submitted May 31, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application Numbers 06/356,942, 60/356,960, and 60/279,575.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (572) 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 7

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

SEP 2 0 2004

Technology Center 2100

In re Application of:
Paul C. KOCHER, et al.
Application No. 10/113,363
Filed: March 27, 2002
For: CONTENT SECURITY LAYER PROVIDING LONG-TERM RENEWABLE SECURITY

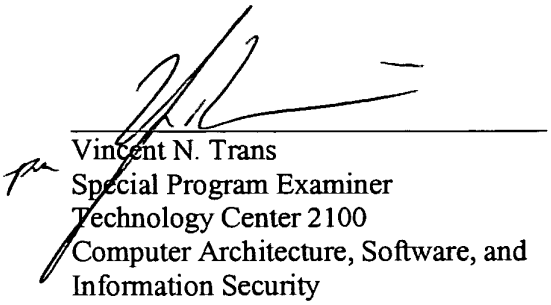
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 22, 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: Edward J. Radlo
Sonnenschein Nath & Rosenthal LLP
685 Market Street, 6th Floor
San Francisco, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAIL Paper No. 8

SAWYER LAW GROUP LLP
P.O.BOX 51418
Palo Alto, CA 94303

NOV 2 5 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
THE, ANDRE
Application No. 10/113,370
Filed: March 29, 2002
For: SIMULATING HIGH-SPEED ACCESS ON A LOW-BANDWIDTH NETWORK CONNECTION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorneys/Agents of record associated with customer number 29,141, filed on September 17, 2003 (paper no. 7).

A grantable request to withdraw as attorney/agent of record must do the following:
(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 signer of the petition, Mr. Stephen Sullivan is granted the request for withdraw. The customer number 29,141 is not associated with the file, therefore all other attorneys associated with this file remain of record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being returned to TC 2600 technical Support Staff to update the correspondence address and then will be forwarded to the Technology Center's central files to await action by the examiner in appropriate time.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc:
Ron Jon
4925 Beard Avenue South
Minneapolis, MN 55410

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN TX 78758

COPY MAILED

AUG 2 4 2009

OFFICE OF PETITIONS

In re Application of :
Satish, et al. :
Application No. 10/113,394 : ON APPLICATION FOR
Filed: April 1, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No.VRT0005US :

This is in response to the PETITION FOR REVIEW OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed July 7, 2009, and on July 13, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is eight hundred forty-six (846) days, not five hundred forty-five (545) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> 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 –

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on April 12, 2006.

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).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN TX 78758

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MAR 0 3 2010

OFFICE OF PETITIONS

In re Patent No. 7,596,611	: DECISION ON REQUEST
Satish, et al.	: FOR
Issue Date: September 29, 2009	: RECONSIDERATION OF
Application No. 10/113,394	: PATENT TERM ADJUSTMENT
Filed: April 1, 2002	: and
Atty Docket No. VRT0005US	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 13, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred forty-two (842) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred forty-two (842) days is **GRANTED**.

Deposit account 50-2306 will be charged $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred forty-two (842)** days.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,596,611 B1

DATED : Sep. 29, 2009

INVENTOR(S) : Satish, 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 (541) days

Delete the phrase "by 541 days" and insert – by 842 days--

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)
6647869	2003-11-18	10/113,402	2002-04-02	M-248

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Victor F. Lohmann, III/	Date (YYYY-MM-DD)	
Name	Victor F. Lohmann, III	Registration Number	33951

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6647869
Issue Date: November 18,2003
Application No. 10113402
Filed: April 2,2002
Attorney Docket No. M-248

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 21,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 21,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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Paper No. 13

KEITH FRANTZ
401 WEST STATE STREET
SUITE 200
ROCKFORD, IL 61101

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DEC 0 6 2004

OFFICE OF PETITIONS

In re Application of

Stevenson W. Verne

Application No. 10/113,409

Filed: April 1, 2002

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper response in a timely manner to the final Office action mailed August 1, 2003, which set a shortened statutory period for reply of three (3) months. No response was received within the allowed period, and the application became abandoned on November 2, 2003. A Notice of Abandonment was mailed on March 23, 2004.

The Request for Continued Examination filed November 8, 2004, is noted and made of record.

The application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SENNIGER POWERS LEAVITT & ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

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FEB 0 3 2005

OFFICE OF PETITIONS

In re	:	
Holton, et al.	:	DECISION REGARDING
Application No. 10/113,427	:	PATENT TERM ADJUSTMENT
Filed: March 29, 2002	:	
Attorney Docket No. FSUM 10452.1	:	

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(B)," filed March 5, 2004, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **DISMISSED**.

On February 24, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is one hundred fifty-one (151) days. On March 5, 2004, Applicants submitted the instant ""APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(B)". Applicants state that they believe there was an error in the patent term adjustment calculation, in particular because the instant application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of one hundred fifty-one (151) days based on an adjustment for PTO delay of one hundred fifty-one (151) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by zero days of applicant delay.

The provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 C.F.R. § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A Fries
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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Paper No. 12

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

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MAR 2 4 2004

OFFICE OF PETITIONS

In re Application of

Maxwell, et al.

Application No. 10/113,435

Filed: March 29, 2002

Attorney Docket No. I-22930

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 26, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely response to the final Office action mailed July 22, 2003. The final Office action set a shortened statutory period fro reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on October 23, 2003.

The request for an extension of time within the third month is noted, but is not necessary in this instance because the application is already abandoned. The fee for the extension of time within the third month will be credited to deposit account 13-0005.

The amendment filed February 26, 2004, failed to place the application in condition for allowance, therefore, the Request of Continued Examination filed March 1, 2004, is necessary to revive the application.

The application file is being forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

1762

INTEROFFICE MEMORANDUM

To: Michael Barr
Technology Center 1700

From: Kenya McLaughlin, Petitions Attorney
Office of Petitions, Crystal Plaza 4 3D10
(703) 305-0010

DATE: March 19, 2004

RE: 10/113,435

Please review Paper No. 9 to determine if the amendment places the application in condition for allowance. You may indicate your decision below and return to my attention in the Office of Petitions at your very earliest convenience. Thank you.

___ **Yes, the amendment places the application in condition for allowance.**

X **No, the amendment does not place the application in condition for allowance.**

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

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AUG 15 2003

OFFICE OF PETITIONS

Applicant: Reed et al.
Appl. No.: 10/113,445
Filing Date: March 29, 2002
Title: FLUORESCENT QUENCHING DETECTION REAGENTS AND METHODS
Attorney Docket No.: 290097.403
Pub. No.: US 2002/0096254 A1
Pub. Date: May 22,,2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), which was received via facsimile transmission on July 17, 2003, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

The application is being forwarded to the Office of PreGrant Publication (PG-PUB) in Crystal Park 3-905 for further processing.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of :
Andy P. Annadurai et al :
Application No. 10/113,469 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. 021067-4.00US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 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 October 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 22, 2005.

Petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record. If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or authorization of agent must be submitted. A correspondence address must be included on the correspondence instructing the Office where all future communications should be mailed.

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: LEO LAX, CHIEF EXECUTIVE OFFICER
SKYPOINT CAPITAL CORPORATION
555 LEGGET DRIVE, TOWER B, SUITE 830
KANATA, ONTARIO K2K 2X3
CANADA AIRMAIL

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON MA 02199-7610

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
COGLIANDRO, John :
Application No. 10/113,490 : DECISION ON PETITION
Filed: April 01, 2002 : TO WITHDRAW
Attorney Docket No. **080205-0103** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 25, 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 Joseph M. Maraia on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor John Cogliandro at the address indicated below.

There is an outstanding Office action mailed February 03, 2009 that requires a reply from the 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: **JOHN COGLIANDRO**
P.O. BOX 494
DEDHAM, MA 02027

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Paper No. 10

McGuire Woods, LLP
1750 Tysons Boulevard
Suite 1800
McLean, VA 22102

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OCT 07 2003

OFFICE OF PETITIONS

In re Application of
Dong-Gyu Kim, et. al.
Application No. 10/113,491
Filed: March 29, 2002
Attorney Docket No. 6192.0282.CA

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on July 28, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 13, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight March 13, 2003.

In response to the non-final Office action, petitioner submitted with the instant petition $1300 for the petition to revive fee, an amendment, and Power of Attorney/Statement under 37 CFR 3.73(b) signed by the Assignee.

The Power of Attorney signed by the Assignee on July 28, 2003, has been accepted.

Since all the requirements for a grantable petition have been met, the petition is **GRANTED**.

The above-identified application is being forwarded to Technology Center 2800 for further review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 04 2005

Leslie P. Kramer, Esq.
Dorr, Carson, Sloan & Birney, P.C.
3010 E. 6th Avenue
Denver CO 80206

In re Application of :
Weil et al :
Serial No.: 10/113,511 : DECISION ON PETITION
Filed: April 1, 2002 :
For: Pharmaceutically Enhanced Low-Energy:
Radiosurgery :

This is in response to applicants' petition filed April 22, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the merits as it relates HIV/AIDS.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450 or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

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DIW May-07

MICHAEL WEIL
584 W. DOUGLAS ROAD
FORT COLLINS CO 80524

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of :
Weil et al. : LETTER DISMISSING PETITION
Application No. 10/113,511 :
Filed: 1 April, 2002 :
For: PHARMACEUTICALLY ENHANCED :
LOW-ENERGY RADIOSURGERY :

This is a communication in response to the paper styled as a petition, filed on 8 March, 2007, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is dismissed for the reasons stated below.

This application became abandoned on 12 October, 2006, for failure to file a timely reply to the non-final Office action mailed on 11 July, 2006, which set a three (3) month shortened statutory period for reply. No extensions of time time for reply were obtained in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 26 February, 2007.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition, which is signed by inventor Michael D. Weil, cannot be considered on the merits because it is not properly signed. Specifically, 37 CFR 1.4 requires that all papers filed in the USPTO must be signed by either a registered patent attorney or all of the inventors in an application. As this application contains an executed declaration listing Michael D. Weil and Kevin N. Morris as joint inventors, the petition must be signed by both inventors or by their representative.

It is also noted that the amendment filed as the reply is signed by only one of the inventors. A properly signed amendment must be filed as the required reply.

Applicants should file a new petition signed by both joint inventors or their representative. No additional petition fee is due.

A reply to this communication should be submitted within ONE (1) MONTH of the date of mailing of this communication.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL WEIL
584 W. DOUGLAS ROAD
FORT COLLINS CO 80524

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of :
Weil et al. :
Application No. 10/113,511 : ON PETITION
Filed: 1 April, 2002 :
For: PHARMACEUTICALLY ENHANCED :
LOW-ENERGY RADIOSURGERY :

This is a decision on the petition filed on 24 May, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 12 October, 2006, for failure to file a timely reply to the non-final Office action mailed on 11 July, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were obtained in accordance with 37 CFR 1.136(a). Notice of

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Abandonment was mailed on 26 February, 2007. The paper filed as a petition on 8 March, 2007, was dismissed on 17 May, 2007.

Receipt of the amendment filed with the present petition is acknowledged.

The application is being referred to Technology Center Art Unit 3737 for further processing

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

MICHAEL WEIL
584 W. DOUGLAS ROAD
FORT COLLINS CO 80524

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In re Application of	:	
Weil et al.	:	ON APPLICATION FOR
Application No. 10/113,511	:	PATENT TERM ADJUSTMENT
Filed: April 1, 2002	:	
Atty Docket No. 8370/4(B)	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed November 19, 2008. Applicants request that 245 days be removed from the initial determination of patent term adjustment of six hundred sixty-three (663) days.

The request is **DISMISSED**.

Applicants are advised that § 1.705(b) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the notice of allowance. See § 1.702-1.705. Moreover, § 1.705(b) provides that:

> An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance. An application for patent term adjustment under this section must be accompanied by:
>
> (1) The fee set forth in § 1.18(e) ...

The instant application for patent term adjustment was filed after the mailing of the notice of allowance and with payment of the issue fee. Thus, the application for patent term adjustment was timely filed. However, neither the fee under § 1.18(e) nor a general authorization to charge any required fees, accompanied

the application for patent term adjustment. A fee transmittal cover sheet was filed, but it was unsigned and was not accompanied by the required fee. Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under §1.18(e). Applicant is not precluded from promptly paying the required fee for consideration of this application for patent term adjustment. Applicant should call the undersigned upon submission of such fee.

The Office of Data Management has been advised of this decision and directed to go forward with processing of this application into a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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DARBY & DARBY P.C.
805 THIRD AVENUE
NEW YORK NY 10022

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JAN 14 2005

OFFICE OF PETITIONS

In re Patent No. 6,791,252 :
Issue Date: September 14, 2004 :
Application No. 10/113,521 : ON PETITION
Filed: March 28, 2002 :
Attorney Docket No. 2598/0K436 :

This is a decision on the petition filed November 10, 2004, under 37 CFR 1.183, to waive the rules of 37 CFR 3.81(a) and accept the correction of the assignee on the front page of the above-identified patent. This decision is also rendered in response to the renewed request for certificate of correction, pursuant to 37 CFR 1.323.

The petition under 37 CFR 1.183 is **GRANTED**.

The request for a certificate of correction under 37 CFR 1.323 is **GRANTED**.

Assignment data printed on the patent is based solely on the information so supplied on the Issue Fee Transmittal Form (PTOL-85B). A review of the record indicates that the Issue Fee Transmittal Form (PTOL-85B), submitted August 2, 2004, incorrectly identified the assignee.

In accordance with the request, and as the request agrees with Office assignment records, the assignee information will be corrected on the face of the patent as follows:

Assignee: Samsung Electro-Mechanics Co., Ltd.
Kyungki-Do, Korea

The fees for the petition ($130.00) and for the certificate of correction ($100.00) have been applied.

This file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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SKJERVEN MORRILL MACPHERSON LLP
SUITE 700
25 METRO DRIVE
SAN JOSE, CA 95110

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DEC 1 2 2003

OFFICE OF PETITIONS

In re Application of
Frank Kuo
Application No. 10/113,526
Filed: March 25, 2002
Attorney Docket No. AB-1221 US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 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 January 3, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 4, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The 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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center AU 2827 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Mehlin Dean Matthews
Two North Market Street, Third Floor
San Jose, CA 95113

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

STEPHEN D. SCANLON
JONES DAY
901 LAKESIDE AVENUE
CLEVELAND, OH 44114

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of :
Smith et al. :
Application No. 10/113,549 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 343355600044 :

This is a decision on the petition under 37 CFR 1.182, filed January 21, 2004, to change the name of an inventor.

The petition is **granted**.

The name will be changed from Kerry Leanne Smith to Kerry Smith Lassiter.

The Office notes the petition lists the name as Kerry Smith-Lassiter (with a hyphen). However, the statement signed by the inventor lists the name as Kerry Smith Lassister. The Office changed the name to the name listed on the inventor's statement.

The file will now be forwarded to the examiner in Technology Center 2100 to render a decision on the petition under 37 CFR 1.48.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Corrected Filing Receipt

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LADAS & PARRY
224 SOUTH MICHIGAN AVENUE
CHICAGO, IL 60604

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Nancy J. Reich :
Application No. 10/113,623 : ON PETITION
Filed: March 25, 2002 :
Attorney Docket No. CU-3912 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 2004, to revive the above-identified application.

This application became abandoned for failure to timely reply to the final Office action mailed February 9, 2004.

The petition is **GRANTED**.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

The Power of Attorney filed December 27, 2004, has been accepted and USPTO records have been updated accordingly.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

The application file is being referred to Technology Center AU 3765, for further processing of the request for continued examination under 37 CFR 1.114 filed December 27, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
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4555 OVERLOOK AVENUE SW
WASHINGTON, DC 20375-5320

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OFFICE OF PETITIONS

In re Application of :
Francis J. Kub et al :
Application No. 10/113,633 : DECISION GRANTING PETITION
Filed: March 29, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. NC 79,682 :

This is a decision on the petition 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 within the extendible three month shortened statutory period set in the nonfinal Office action mailed July 10, 2004. 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 October 11, 2004. A Notice of Abandonment was mailed on September 7, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an 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 July 10, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center Au 2814 for appropriate action on the amendment of November 23, 2004.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 6

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OFFICE OF PETITIONS

In re Application of :
Adam Alaweih :
Application No. 10/113,650 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. TA-3078 :

This is a decision on the petition filed July 8, 2005, which is being treated as a petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (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 Irvin Dingle at (571) 272-3210.

This application is being forwarded to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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WASHINGTON, D.C. 20231
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Paper No. 20051108

Appl No.: 10/113,677
Applicant: Nakayima et al
Filed: 4/2/02

DECISION ON PETITION UNDER *37 CFR 1.148b***on Correction of Inventorship**

This is a decision on the "Petition under 37 CFR 1.48b" filed November 1, 2005, to remove the following inventor: Takayuki Murata.

The petition is GRANTED.

The inventive entity is therefore: Yoshinori Nakajima, Jiro Moriyama and Nobuyuki Hirayama.

The application is being forwarded to the publications for further action.

Stephen D. Meier
Supervisory Patent Examiner,
Art Unit 2853

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321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60654-5313

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Patent of Erickson et al.	:	DECISION ON APPLICATION
Patent No. 7,527,610	:	FOR RECONSIDERATION OF
Issue Date: May 5, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/113,680	:	AND NOTICE OF INTENT TO
Filing Date: March 29, 2002	:	ISSUE CERTIFICATE OF
Attorney Docket No. 047542-0233	:	CORRECTION

This is a decision on the petition filed on March 24, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred twelve (712) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **six hundred fifty-nine (659)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of B delay, the over three year period began on March 30, 2005, and ended on December 28, 2005, *the day before* the RCE was filed, and is 274 (not 275) days. *See* 35 U.S.C. § 154(b)(1)(B)(i). Further, patentee fails to account for the filing of a Notice of Appeal on November 7, 2005, and the subsequent filing of a RCE on December 29, 2005. The 52 days of the over three year period consumed by appellate review, beginning on November 7, 2005 and ending on December 28, 2005, is not included in the B delay (NOTE: December 29, 2005 is already excluded). *See* 35 U.S.C. § 154(b)(1)(B)(ii). Finally, patentee acknowledges that a period of reduction of 62 days should have been entered in association with the filing of the

notice of appeal. Therefore, the patent term adjustment is increased by 222 (274 - 52) days and decreased by 62 days to 659 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred fifty-nine (659)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,527,610 B2

DATED : **May 5, 2009** **DRAFT**

INVENTOR(S) : Erickson

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 499 days

Delete the phrase "by 499 days" and insert – by 659 days--

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NORMAN D. HANSON
FULBRIGHT & JAWORSKI L.L.P.
666 FIFTH AVENUE
NEW YORK, NY 10103-3198

In re Application of	:
Elaine L. Jacobson et al.	:
Serial No.: 10/113,681	: PETITION DECISION
Filed: May 8, 2002	:
Attorney Docket No.: NIAD 210.I-Div.	:

This is in response to the petition under 37 CFR 1.181, filed November 17, 2006, requesting withdrawal of the Finality of the last Office Action.

BACKGROUND

A review of the file history shows that following a restriction requirement, mailed September 4, 2002, and election, made September 26, 2002, the examiner mailed to applicants a first Office action on October 21, 2002, acting on claims 9-11 and 13-18 directed to nicotinamide (elected species). Claim 12 was held to be drawn to a non-elected species. Claims 9-11 and 13-16 were rejected under 35 U.S.C. 102(b) or (e) as being anticipated by Shaskan. Claims 17-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Shaskan. Applicants filed a response on March 31, 2003, wherein claim 10 was amended. Applicant replied to each ground of rejection appropriately.

The examiner mailed a Final Office action to applicants on June 13, 2003. The rejection of claims 9-11 and 13-16 under 35 U.S.C. 102(b) and 102(e) as being anticipated by Shaskan was maintained for the reasons of record. The rejection of claims 17-18 under 35 U.S.C. 103(a) as being unpatentable over Shaskan was maintained for the reasons of record. Applicants filed a response on October 2, 2003, wherein claim 9 was amended, and claims 17 and 18 were canceled. Applicants continued to traverse the rejections of record.

The examiner mailed an Advisory Action to applicants on October 28, 2003, denying entry of Applicants' response as raising issues that would require further consideration and/or search. The rejection of claims 9-11 and 13-18 were maintained for reasons of record.

Applicants filed a Request for Continued Examination (RCE) on November 3, 2003. The amendment filed on October 2, 2003, was entered.

The examiner mailed a Non-Final Office action to applicants on January 13, 2004. Claims 9-11 and 13-16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Shaskan in view of Griffin et al.

Applicants filed a response on April 12, 2004, by amending claims 9 and 13 and responding to all outstanding rejections appropriately.

The examiner mailed a Final Office action to applicants on July 9, 2004. Claim 10 was objected to. The rejection of claims 9-11 and 13-16 under 35 U.S.C. 103(a) as being unpatentable over Shaskan in view of Griffin et al. was maintained for reasons of record.

Applicants filed an amendment After Final on October 8, 2004. Claims 9, 11 and 13 were proposed to be amended, claim 10 canceled, and claims 19-20 were to be added. Applicants continued to traverse the rejection of record.

The examiner mailed an Advisory Action to applicants on December 14, 2004. Applicants' response was denied entry in that the amendment presented additional claims without canceling a corresponding number of finally rejected claims. The rejection of claims 9-11 and 13-16 was maintained for reasons of record.

Applicants filed a second amendment After Final on December 20, 2004, wherein claims 9, 11 and 13 were amended; claim 10 was canceled; and claim 19 was added. Applicants continued to traverse the rejection of record. Applicants filed a Notice of Appeal on January 12, 2005.

The examiner mailed an Advisory Action to applicants on January 21, 2005. The proposed amendments were entered. The request for reconsideration was considered but did not place the application in condition for allowance. Applicants filed an Appeal Brief on June 10, 2005.

In view of the Appeal Brief filed on June 10, 2005, prosecution was reopened. The examiner mailed a Non-Final Office action to applicants on August 29, 2005. Applicants' arguments in regards to claims 9, 11, 13-16 and 19 were considered, but found moot in view of new ground(s) of rejection. Claims 9, 11, 13-16 and 19 were rejected under 35 U.S.C. 112, first paragraph, for failing to comply with the written description requirement. Claims 9, 11, 13, 14 and 19 were rejected under 35 U.S.C. 102(b) as being anticipated by Mundschenk. Claims 9, 13-16 and 19 were rejected under 35 U.S.C. 102(b) as being anticipated by Arnold et al.

Applicants filed a response on November 28, 2005, wherein claims 9 and 11 were amended; claims 15, 16 and 19 were canceled; and claim 20 was added. Claim 12 remained withdrawn from consideration as being drawn to a nonelected species. Applicants responded to all rejections of record appropriately.

The examiner mailed a Notice of Non-Compliant Amendment to applicants on February 21, 2006, as applicants' response filed on November 28, 2005, was found non-compliant. Applicants filed a Compliant Amendment on March 10, 2006.

The examiner mailed a Non-Final Office action to applicants on June 1, 2006. The rejection of claims 9, 11, 13 and 14 under 35 U.S.C. 102(b) as being anticipated by Mundschenk was withdrawn in view of applicants' amendment. Applicants' arguments with respect to claims 9, 13, 14 and 20 being rejected under 35 U.S.C. 102(b) as being anticipated by Arnold et al. were found not persuasive. Claims 9, 11, 13 and 14 were newly rejected under 35 U.S.C. 102(b) as being anticipated by Ludwig et al. Applicants filed a response on August 22, 2006, wherein claim 9 was amended; claim 20 was canceled; and claim 21 was added. Applicants responded to each outstanding rejection appropriately.

The examiner mailed a Final Office action to applicants on November 15, 2006. The rejection of claims 9, 13 and 14 under 35 U.S.C. 102(b) as being anticipated by Arnold et al. was maintained for the reasons of record. Claims 9, 11, 13 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ludwig et al. in view of Pezzuto et al. or van Kranen et al. Claim 21 was rejected under 35 U.S.C. 112, first paragraph , as failing to comply with the written description requirement. Claim 21 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The examiner stated that applicants' amendment necessitated the new ground(s) of rejection and made the action Final.

This petition was filed November 17, 2006, to withdraw the finality of the Office action.

DISCUSSION

Applicants contend that the rejection of claims under 35 U.S.C. 103(a) was not necessitated by applicants' amendment. Applicants contend that all limitations of claim 9 were previously presented, as the change to claim 9 was the incorporation of claim 20 into claim 9. Applicants argue that claim 20 was not rejected over Ludwig et al. in the prior Office action, and thus the finality of Office action is improper. Applicants' arguments are not persuasive.

On March 10, 2006, applicants amended claim 9 to recite:

> 9. A method for accelerating cellular necrosis or apoptosis, comprising topically or transdermally administering **to a subject suffering from epithelial cancer** a composition comprising an amount of an inhibitor of an enzyme which utilizes NAD as a substrate selected from the group consisting of a poly (ADP-ribose) polymerase (PARP) or a tankyrase sufficient to inhibit said enzyme, so as to accelerate cellular necrosis or apoptosis in said subject.

Applicants also added claim 20, which reads:

> 20 A method for accelerating cellular necrosis or apoptosis, comprising administering **to a human suffering from epithelial cancer** a composition comprising an amount of an inhibitor of an enzyme which utilizes NAD as a substrate selected from the group consisting of a poly (ADP-ribose) polymerase (PARP) or a tankyrase sufficient to inhibit said enzyme, so as to accelerate cellular necrosis or apoptosis in **said human**.

Claims 9, 13, 14 and 20 were rejected under 35 U.S.C. 102(b) as being anticipated by Arnold et al. Claims 9, 11, 13 and 14 were rejected under 35 U.S.C. 102(b) as being anticipated by Ludwig et al.

On August 22, 2006, claim 20 was canceled and claim 9 was amended to recite:

> 9. A method for accelerating cellular necrosis or apoptosis, comprising topically or transdermally administering to a **human subject suffering from epithelial cancer** a composition comprising an amount of an inhibitor of an enzyme which utilizes NAD as a substrate selected from the group consisting of a poly (ADP-ribose) polymerase (PARP) or a tankyrase sufficient to inhibit said enzyme, so as to accelerate cellular necrosis or apoptosis in said **human subject**.

As set forth supra, claims 9, 11, 13 and 14 were rejected on June 1, 2006, under 35 U.S.C. 102(b) as being anticipated by Ludwig et al. Ludwig et al. teaches treating carcinogen-induced epidermal pappilomas in mouse skin by application of PARP inhibitors such as nicotinamide and analogues thereof including benzamide. Claim 20 was not rejected under 35 U.S.C. 102(b) as anticipated by Ludwig et al as it recited "human subject" rather than just "subject", but it was rejected under 35 U.S.C. 102(b) over Arnold et al. Therefor, it was not necessary to make a rejection under 35 U.S.C. 103(a), although such could have been done. For the same reason the examiner could not reasonably have expected applicants to limit all claims to "human subject" since all claims with such terminology were already rejected under 35 U.S.C. 102(b). Since claim 9 had now been amended to limit the "subject" to a "human subject", Ludwig et al. could no longer be applied under 35 U.S.C. 102(b). Pezzuto et al. and van Kranen et al. were cited by the examiner to show and confirm that a mouse is a suitable skin model for human skin cancers. The rejection of claims 9, 11, 13 and 14 under 35 U.S.C. 102(b) was then recast as a rejection under 35 U.S.C. 103(a) as being unpatentable over Ludwig et al. in view of either Pezzuto et al. or van Kranen et al. and was necessitated by applicants' amendment filed on August 22, 2006. The rejection under 35 U.S.C. 102(b) over Arnold et al was also maintained and new rejections of the added claim were set forth.

In view of the above the examiner's designation of the Office action of November 15, 2006 as a FINAL Office action was proper.

DECISION

The petition is **DENIED.**

Any request for reconsideration must be filed within TWO (2) MONTHS of the mailing of this decision in order to be considered timely.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600
wrd/pl

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NORMAN D. HANSON
FULBRIGHT & JAWORSKI L.L.P.
666 FIFTH AVENUE
NEW YORK, NY 10103-3198

In re Application of	:	
Elaine L. Jacobson et al.	:	
Serial No.: 10/113,681	:	PETITION DECISION
Filed: May 8, 2002	:	
Attorney Docket No.: NIAD 210.I-Div.	:	

This is in response to the renewed petition under 37 CFR 1.181, filed January 8, 2007, requesting reconsideration of the petition decision mailed January 4, 2007.

BACKGROUND

A review of the file history is set forth in the previous petition decision and is not repeated herein except as necessary.

As noted in the previous decision, the examiner mailed a Non-Final Office action to applicants on June 1, 2006. Applicants' arguments with respect to claims 9, 13, 14 and 20 being rejected under 35 U.S.C. 102(b) as being anticipated by Arnold et al. were found not persuasive. Claims 9, 11, 13 and 14 were newly rejected under 35 U.S.C. 102(b) as being anticipated by Ludwig et al. Applicants filed a response on August 22, 2006, wherein claim 9 was amended; claim 20 was canceled; and claim 21 was added. Applicants responded to each outstanding rejection appropriately.

The examiner mailed a Final Office action to applicants on November 15, 2006. The rejection of claims 9, 13 and 14 under 35 U.S.C. 102(b) as being anticipated by Arnold et al. was maintained for the reasons of record. Claims 9, 11, 13 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ludwig et al. in view of Pezzuto et al. or van Kranen et al. Claim 21 was rejected under 35 U.S.C. 112, first paragraph , as failing to comply with the written description requirement. Claim 21 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

The examiner stated that applicants' amendment necessitated the new ground(s) of rejection and made the action Final.

A petition was filed November 17, 2006, to withdraw the finality of the Office action. A decision denying the petition was mailed January 4, 2007. This renewed petition was improperly considered by the examiner as an amendment after Final rejection and an Advisory Action was mailed to applicants on February 5, 2007. The Advisory Action was improper and should be disregarded. Applicants then filed a second copy of the renewed petition on February 12, 2007.

DISCUSSION

Applicants again argue that the new rejection of claims under 35 U.S.C. 103(a) was not necessitated by applicants' amendment. Applicants contend that all limitations of claim 9 were previously presented, as the change to claim 9 was the incorporation of claim 20 into claim 9. Applicants argue that claim 20 was not rejected over Ludwig et al. under 35 U.S.C. 103(a) in the prior Office action, and thus the finality of Office action is improper. Applicants' arguments remain unpersuasive.

Applicants do not dispute that the rejection over Arnold et al under 35 U.S.C. 102(b) remained the same from one Office action to the next and was proper. Applicants do not dispute that the rejection of newly added claim 21 under 35 U.S.C. 112, first and second paragraphs, was necessitated by applicants' amendment. Applicants argue only that the rejection of claims 9, 11 and 13-14 over Ludwig et al changed from 35 U.S.C. 102(b) to 35 U.S.C. 103(a) due to incorporation of the limitation of claim 20 into claim 9 and that this was a new ground of rejection not necessitated by applicants' amendments. The only change in claim 9 was the change of "subject" to "human" suffering from epithelial cancer. As the term "subject" had been used throughout the prosecution history in claim 9 and the term "human" in claim 20, the examiner could not have predicted that claim 20 would be incorporated into claim 9, especially since such incorporation would not avoid the rejection over Arnold et al.

As previously stated the examiner's rejection of claim 20 over Arnold et al, but not over Ludwig et al, was a choice made by the examiner to maintain the Office action in reasonable form since all claims were properly rejected. Applicants' amendment did remove the rejection under 35 U.S.C. 102(b) over Ludwig et al since the reference only related to mouse skin (i.e. a "subject") and not human skin. The addition of two secondary references to Ludwig et al under 35 U.S.C. 103(a) to teach that treatment of mouse skin is a competent model for treatment of human skin with the same protocols was necessitated by applicants' amendment to claim 9 if Ludwig et al would be continued to be applied in a rejection. That claim 20 was not previously rejected in this manner, but was rejected over another reference under 35 U.S.C. 102(b), is of no consequence as there was no pressing need to make such a rejection.

DECISION

The petition decision has been reviewed as requested, however the petition is still **DENIED.**

Any request for reconsideration must be filed within TWO (2) MONTHS of the mailing of this decision in order to be considered timely.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600
wrd/pl

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OFFICE OF PETITIONS

In re Application of
Thomas Wallace
Application No. 10/113,708
Filed: April 1, 2002
Attorney Docket No. 17845.003

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(f)

This is a decision on the "PETITION TO THE DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE PURSUANT TO 35 USC §122(b)(2)(B)(iii) TO ACCEPT UNINTENTIONALLY DELAYED RESCISSION OF NON-PUBLICAITON REQUEST AND NOTICE OF FILING IN FOREIGN COUNTRIES OR, IN THE ALTERNATIVE, TO REVIVE UNINTENTIONALLY ABANDONED PATENT APPLICATION," filed June 5, 2003. This petition is properly treated as a petition to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a corresponding PCT application (No. PCT/US03/05724) filed on February 25, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the foreign or international application.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Petitioner submitted a check for $130 for the petition fee. As the petition fee pursuant to § 1.17(m) is $650,

the deficiency of $520 has been charged to Deposit Account No. 18-1215, as authorized.

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 Notice Regarding Rescission of Nonpublication Request to show the projected publication date of December 11, 2003 accompanies this decision on petition.

The application is being forwarded to Technology Center 3743 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/113,708	04/01/2002	Thomas E. Wallace	17845.003

CONFIRMATION NO. 5483

21878
KENNEDY COVINGTON LOBDELL & HICKMAN, LLP
100 NORTH TRYON STREET
BANK OF AMERICA CORPORATE CTR. SUITE 4200
CHARLOTTE, NC 28202

OC000000010799635

Date Mailed: 09/02/2003

NOTICE REGARDING RESCISSION OF NONPUBLICATION REQUEST AND NOTICE OF FOREIGN FILING

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the United States Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 12/11/2003.

If applicant has not "foreign filed,"[1] then applicant need take no further action regarding the nonpublication request.

If applicant "foreign filed" the application after filing the above application and before rescinding the nonpublication request and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and 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), __ Off. Gaz. Pat. Office _ (July 1, 2003). This document is also posted on the USPTO Internet site at: www.uspto.gov.

If a notice of foreign filing was not filed within 45 days of the date of "foreign filing," then the application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii), and applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (703) 305-9282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1]Note that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing" for purpose of this

notice.

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P.O. Box 298
Boise, ID 83701-0298

In re Application of
ROBERTS, STEVE, et al.
Application No. 10/113,710
Filed: March 27, 2002
For: **VOICE DIALOG SERVER METHOD AND SYSTEM**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition for Withdrawal of Abandonment, filed July 8, 2005, requesting the holding of abandonment be withdrawn in the above-identified application.

This application was held abandoned for failure to timely file the issue fee in response to the Notice of Allowance and Issue Fee Due mailed March 18, 2005. A Notice of Abandonment has not been mailed.

A review of the record indicates that a Revocation and Power of Attorney was filed prior to the Notice of Allowance of March. A copy of the Power of Attorney was filed with the petition and shows a certificate of mailing date of February 19, 2003. The Power of Attorney changed the correspondence address prior to the mailing of the Office action on August 22, 2003. The Office action was mistakenly mailed to a previous correspondence address resulting in an irregularity in mailing.

In view of the above stated reasons the holding of abandonment is withdrawn. The Notice of Allowance mailed March 18, 2005 is vacated.

The petition is **GRANTED**.

The application file will be forwarded to the Technology Center's technical support staff for preparing a new Notice of Allowance and Issue Fee Due and for re-mailing the Notice of Allowability. The period for paying the issue fee will be set to run from the date the new Notice of Allowance is mailed.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 18, 2006

TO SPE OF : ART UNIT 3712

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/113727 Patent No.: 6,951,464

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

EUGENE KIM
SUPERVISORY PATENT EXAMINER

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

SEAGATE TECHNOLOGY c/o MOFO SF
425 MARKET ST.
SAN FRANCISCO CA 94105

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MAY 07 2007

OFFICE OF PETITIONS

In re Application of :
Rahman, Mohamed Mizanur :
Application No. 10/113,735 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. STL 3110 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 15, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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C/O MOFO SF
425 MARKET STREET
SAN FRANCISCO, CA 94105

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OFFICE OF PETITIONS

In re Application of :

RAHMAN, Mohamed M. :
Application No. 10/113,735 : DECISION ON PETITION
Filed: March 27, 2002 : TO WITHDRAW
Attorney Docket No. **8209.087.NPUS00** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **SEAGATE TECHNOLOGY C/O MOFO SF** has been revoked by the assignee of the patent application on July 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SEAGATE TECHNOLOGY LLC**
C/O NOVAK DRUCE & QUIGG LLP
1000 LOUISIANA, SUITE 5350
HOUSTON, TX 77002

UNITED 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. YASHIMA ET AL.
Issue Date: October 19, 2004
Appl No.: 10/113,776
Filed: March 28, 2002

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition under 37 CFR 1.48, filed February 11, 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.

Eddie C. Lee
Supervisory Patent Examiner
Art Unit 2811

HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

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DEC 19 2006

Director's Office
Office of Patent Publication

In re Application of :
WOODALL, JONATHAN H. :
Application No. 10/113,782 : **DECISION ON PETITION**
Filed: APRIL 01, 2002 :
Attorney Docket No. 1081/1 :

This is a decision on the Request To Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181, And Payment Of Issue Fee received in the United States Patent & Trademark Office (USPTO) on September 28, 2006.

The petition is **DISMISSED**.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee and Publication fee, as required in the Notice of Allowance and Fee(s) Due mailed June 7, 2005. The Notice of Abandonment, mailed on April 24, 2006 indicates, "The submitted fee of $300 is insufficient. A balance of $700 is due."

The Office acknowledges receipt of Part B – Fee(s) Transmittal on September 7, 2005, authorizing that the Issue Fee and Publication Fee be charged to Deposit Account No. 50-1047. On September 12, 2005, when an attempt was made by the Accounting Technician in the Office of Initial Patent Examinations (OIPE) to charge the fees, there were insufficient funds in the Deposit Account.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."

> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquiries with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail:
Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703-308-9250 ext. 167.

Brenda J. Moore

Brenda J. Moore
Quality Operations Assistant
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

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JUL 26 2007

OFFICE OF PETITIONS

In re Application of :
WOODALL :
Application No.: 10/113,782 : DECISION ON PETITION
Filing Date: April 1, 2002 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: 1081/1 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the full issue fee in a timely manner in reply to the Notice of Allowance mailed June 7, 2005, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on September 8, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee is accepted as having been unintentionally delayed.

With further regard to the statement in the petition that "The entire delay in paying the balance of the issue fee due was unintentional", this statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

The 37 CFR 1.137(b) petition fee of $750.00 has been charged to Deposit Account No. 50-1047.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-1-05

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 10/13788 6873088

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

*Should Claim 12, 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:

Change to Claim 12 is not approved. Claim 16 (Patented claim 12) as presented in August 11, 2004 is claiming the width not the length as the attorney is arguing.
Changes to claims 5 and 14 are approved.

JAAguirrechea 9/6/05

DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2834
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 2550
SALT LAKE CITY UT 84110

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AUG 1 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Mathieu Hubertus M. Noteborn, et. al.	:	
Application No. 10/113,790	:	ON PETITION
Filed: March 29, 2002	:	
Attorney Docket No. 2906-4819.1US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 2005, to revive the above-identified application.

In response to the Restriction Requirement mailed November 18, 2004, petitioner hereby submits $1,500 for the petition to revive fee, an amendment with an election, an Associate Power of Attorney, and the statement of unintentional delay.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The Associate Power of Attorney filed May 19, 2005, has been acknowledged.

This application is being referred to Technology Center Art Unit 1642, for review of the amendment/election filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 6

JOHN L. ADAIR
GARY CARY WARE & FREIDENRICH LLP
1221 SOUTH MOPAC EXPRESSWAY
SUITE 400
AUSTIN, TX 78746-6875

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FEB 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Philip V. Wiles Jr. :
Application No. 10/113,808 : NOTICE
Filed: March 29, 2002 :
Attorney Docket No. BMC1130-3 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 2100.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Bever Hoffman & Harms, LLP
Tri-Valley Office
1432 Concannon Boulevard, Bldg. G
Livermore, CA 94550

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AUG 2 2 2007

OFFICE OF PETITIONS

In re Application of
Alan Deikman et al.
Application No. 10/113,829
Filed: March 29, 2002
Attorney Docket No. ZNX-002-1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 1, 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 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 reason set forth in the request, "[T]he responsible attorney ... has left our firm and taken responsibility for the above-identified case," does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to applicant.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant and to the address noted on the request. If Mr. Edward S. Mao desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

A non-final rejection was mailed on July 31, 2007. Failure to timely respond will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Alan Deikman
45171 Cougar Circle
Freemont, CA 94539

cc: Edward S. Mao
Silicon Valley Patent Group
2350 Mission College Boulevard
Suite 360
Santa Clara, CA 95054

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GO

Paper No. 6

JOSEPH TEJA, JR
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210

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MAY 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Alfred Ducharme :
Application No. 10/113,834 : NOTICE
Filed: April 1, 2002 :
Attorney Docket No. C01104/70038 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 2800.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

JOEL WEISS
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

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NOV 1 9 2002

OFFICE OF PETITIONS

In re Application of Andrew Gilbert, Glenn Kirwin, William Tselepis, Howard Lutnick, and Timothy D. Jones Application No. 10/113,841 Filed: March 29, 2002 Attorney Docket No. CF/050 Title: REQUEST FOR QUOTE (RFQ) AND INSIDE MARKETS	DECISION ACCORDING STATUS UNDER 37 C.F.R. § 1.47(a)

This is a decision on the petition under § 1.47(a), filed October 21, 2002.

The above-identified application was filed on March 29, 2002, without an executed oath or declaration, and naming Andrew Gilbert, Glenn Kirwin, William Tselepis, Howard Lutnick, and Timothy D. Jones as joint inventors. Accordingly, on May 13, 2002, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring applicants to submit an executed oath or declaration and the surcharge under §1.16(e) for its late filing. This Notice set a two month period for reply, with extensions of time obtainable under §1.136(a).

Applicants replied filing the instant petition under § 1.47, with a declaration executed by joint inventors Lutnick and Jones and by the legal representatives of inventors Kirwin and Tselepis. (Three of the inventors Gilbert, Kirwin and Tselepsis are deceased). This reply was made timely by an accompanying petition for a four-month extension of time. Applicants state that acceptance of the declaration under § 1.47 is proper because the legal representative of inventor Gilbert has been identified, but she refuses to sign. Accompanying the petition is a copy of a letter sent to the nonsigning legal representative requesting her signature. The letter states that a copy of the patent was sent with the declaration for patent.

RELEVANT STATUTES, REGULATIONS AND PROCEDURES

37 CFR 1.42:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

MPEP 409.03(c) Legal Representatives of Deceased Inventor Not Available:

> 37 CFR 1.47 applies where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application.

37 CFR 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 non-signing inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the non-signing inventor. The non-signing inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

37 CFR 1.64 Person making oath or declaration.

> (a) The oath or declaration (§ 1.63), including any supplemental oath or declaration (§ 1.67), must be made by all of the actual inventors except as provided for in §§1.42, 1.43, 1.47, or § 1.67.
>
> (b) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, 1.47, or § 1.67), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor is required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

ANALYSIS

The declaration and petition have been reviewed and found in compliance with the applicable provisions of §§ 1.42, 1.47, 1.63 and 1.64 respectively. The petition includes payment of the petition fee. The last known addresses of the deceased inventor and of the legal representative are understood to be as set forth in the declaration. In addition, the petition includes adequate proof of the refusal by the legal representative for deceased inventor Gilbert to join in the application.

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 3621 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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ROPES & GRAY, LLP
PATENT DOCKETING 36/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

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NOV 10 2008

In re Application of :
Andrew C. Gilbert, et al. :
Application No. 10/113,841 : DECISION ON PETITION
Filed: March 29, 2002 : TO WITHDRAW
Attorney Docket No. 01-1050 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Ropes & Gray, LLP has been revoked by the assignee of the patent application on April 30, 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 undersigned at 571-272- 1642.

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions

cc: DEAN P. ALDERUCCI
CANTOR FITZGERALD, LP
110 EAST 59TH STREET
6TH FLOOR
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, DC 20231
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Paper No. 7

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APR 23 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of :
Soorapanth et al. :
Application No. 10/113,846 :
Filed: March 27, 2002 :
For: LOCAL OSCILLATOR ARCHITECTURE TO REDUCE TRANSMITTER PULLING EFFECT AND MINIMIZE UNWANTED SIDEBAND :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on April 1, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All attorneys associated with Customer No. 20,350 are granted the request for withdraw of attorney/agent. All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: BENJAMIN S. WITHROW
WITHROW & TERRANOVA, P.L.L.C.
201 SHANNON OAKS CIRCLE, SUITE 200
CARY, NC 27511

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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OCT 20 2003

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
Clement H. Truran	:
Serial No.: 10/113,857	: STATUS LETTER
Filed: April 2, 2002	:
Attorney Docket No.: 040268-0170	:

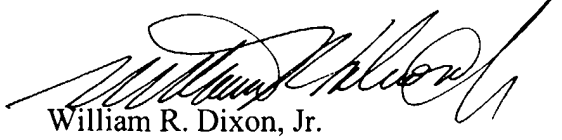
This is in response to applicant's attorney's request, filed September 16, 2003, to withdraw from representation in the above identified application.

§ 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or
(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicant's attorney has proivided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.



William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

SEP 1 6 2003
PATENT & TRADEMARK OFFICE

Attorney Docket No. 040268-0170

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Clement Harold Truran

Title: Camellia Plant Named 'Marge Miller'

Appl. No.: 10/113,857

Filing Date: April 2, 2002

Examiner: K. Bell

Art Unit: 1661

RECEIVED
SEP 17 2003
TECH CENTER 1600/2900

WITHDRAWAL AS ATTORNEY OF RECORD

Commissioner for Patents
Washington, DC 20231

Sir:

Effective immediately, the following Foley & Lardner attorneys withdraw as Attorney of Record for the captioned application:

STEPHEN A. BENT	Reg. No.	29,768
DAVID A. BLUMENTHAL	Reg. No.	26,257
BETH A. BURROUS	Reg. No.	35,087
ALAN I. CANTOR	Reg. No.	28,163
WILLIAM T. ELLIS	Reg. No.	26,874
JOHN J. FELDHAUS	Reg. No.	28,822
MICHAEL D. KAMINSKI	Reg. No.	32,904
KENNETH E. KROSIN	Reg. No.	25,735
GLENN LAW	Reg. No.	34,371
PETER G. MACK	Reg. No.	26,001
BRIAN J. MC NAMARA	Reg. No.	32,789
RICHARD C. PEET	Reg. No.	35,792
GEORGE E. QUILLIN	Reg. No.	32,792
BERNHARD D. SAXE	Reg. No.	28,665
CHARLES F. SCHILL	Reg. No.	27,590
RICHARD L. SCHWAAB	Reg. No.	25,479
HAROLD C. WEGNER	Reg. No.	25,258

Not Approved
William Rahway
SPRG TC1600
10/17/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 10

JOHN L. ADAIR
GARY CARY WARE & FREIDENRICH LLP
1221 SOUTH MOPAC EXPRESSWAY
SUITE 400
AUSTIN, TX 78746-6875

COPY MAILED

FEB 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Ling Zhao et al :
Application No. 10/113,870 :
Filed: March 29, 2002 :
Attorney Docket No. BMC1130-1 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 2100.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

*UNITED STATES PATENT AND TRADEMARK OFFICE

10/113871

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DATE: June 14, 2006
TO: Certificates of Correction Branch
FROM: Mr. Bella C. Matthew
SPE, Art Unit 2624
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6873743 as specified on the attached Certificate.

Mr. Bella C. Matthew, SPE
Art Unit 2624

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6873743 B2
Patented: Mar. 29, 2005

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Eran Steinberg
372 Douglass St. San Francisco
CA 94114

Alexandru DRIMBAREAN
51 Fearann RI,
Doughiska, Galway, Ireland

Prof.Vasile BUZULOIU
Bucuresti, Str.
Turnu Magurele, NR. 13, Ap. 279,
Sector 4, Romania

Mihai Alexandru CIUC
Str. Latea Gh. 17, BI C60, Sc. 1, Ap. 45,
Sector 6, 768043 Bucuresti, Romania

Constantin VERTAN
26 Ghencea Blvd, BI. C88A, Apt. 17,
Bucharest, Romania

Peter CORCORAN
Cregg, Claregalway,
Galway, Ireland

Mr. Bella C. Matthew
Supervisory Patent Examiner
Art Unit 2624

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VULCAN, INC. C/O STOEL RIVES LLP
201 S. MAIN ST., STE 1100
SALT LAKE CITY UT 84111

MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
James A. Billmaier, et al. :
Application No.: 10/113,889 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No.: None :

This is a decision on the petition, filed June 11, 2009, 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, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2426 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ARRIS GROUP C/O STOEL RIVES LLP
201 S. MAIN ST., STE 1100
SALT LAKE CITY UT 84111

MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Application of :
BILLMAIER, James A. et al. :
Application No. 10/113,889 : DECISION ON PETITION
Filed: April 02, 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 May 12, 2010.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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 no change of address was provided.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

/Tredelle D. Jackson/
Paralegal Specialist
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 12 2008

OFFICE OF PETITIONS

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

In re Application of :
White, et al. :
Application No. 10/113,898 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 5150-62400

This is a decision on the "Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181, filed May 30, 2008."

The petition is **DISMISSED**.

The above-cited application was held abandoned on after a proper response was received to the final Office action mailed March 8, 2007. A review of the relevant application file history reveals the following:

- On March 8, 2007, a final rejection is issued.
- On June 8, 2007, applicant filed a Notice of Appeal and a request for a pre-appeal brief review.
- On January 28, 2008, a Notice of Panel Decision from Pr-Appeal Brief Review was mailed indicating that the application should proceed to the Board of Patent Appeals and Interferences and allowing an extendable period of one-month for applicant to file an appeal brief.
- On March 14, 2008, a Notice of Abandonment was mailed indicating that a proper response to the final Office action was not received.

Petitioner requests that the holding of abandonment be withdrawn and the period for filing the appeal brief be reset. In support, petitioner maintains that the imposition of the holding of abandonment was premature. Implicit in petitioner's argument is the notion that the application is no longer pending and, therefore, had no time period running against it.

Petitioner's argument has been considered, but is not persuasive. When there is a time period for response running against an application the fact that an improper Notice of Abandonment was mailed does not relieve applicant of the responsibility of responding. In this case, applicant received the Notice of Panel Decision from Pr-Appeal Brief Review which allowed a one-month extendable period for reply, and applicant was responsible for filing an appeal brief, or other appropriate paper, within the period allowed. The imposition of the holding of abandonment, albeit premature, does not toll the time period running against the application. Petitioner was still responsible for filing an appeal brief within the period set by the Notice of Panel Decision from Pre-Appeal Brief Review.

Furthermore, it is also noted that the petition to withdraw the holding of abandonment was filed May 30, 2008, which was within the extendable period for filing an appeal brief with said period ending at midnight on August 28, 2008. It is further noted that 37 CFR 1.181(f) provides that, "[t]he mere filing of a petition will not stay any period for reply running against the application, nor act to stay other proceedings." Petitioner was, therefore, responsible for timely prosecuting the application, which would include filing an appeal brief, or other appropriate paper, notwithstanding the filing of the petition to withdraw the holding of abandonment.

Section 711.03(c) of the Manual of Patent Examining Procedure provides, in pertinent part, that:

> A petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

In this instance, there is no dispute as to whether the application is abandoned as an appeal brief, or other appropriate paper, was not filed within the allowable period. As indicated by MPEP 711.03(c) cited above, a petition to withdraw the holding of abandonment is not the appropriate course of action to return the application to a pending status. The most appropriate course of action is revival of the application pursuant to 37 CFR 1.137. Petitioner may file a petition under 37 CFR 1.137 to revive this application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

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OFFICE OF PETITIONS

In re Application of :
White, et al. :
Application No. 10/113,898 :
Filed: March 29, 2002 :
Attorney Docket No. 5150-62400

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application was held abandoned on after a proper response was received to the final Office action mailed March 8, 2007. A review of the relevant application file history reveals the following:

- On March 8, 2007, a final rejection is issued.
- On June 8, 2007, applicant filed a Notice of Appeal and a request for a pre-appeal brief review.
- On January 28, 2008, a Notice of Panel Decision from Pr-Appeal Brief Review was mailed indicating that the application should proceed to the Board of Patent Appeals and Interferences and allowing an extendable period of one-month for applicant to file an appeal brief.
- On March 14, 2008, a Notice of Abandonment was mailed indicating that a proper response to the final Office action was not received.

The Appeal Brief filed November 14, 2008, is noted.

The application is being forwarded to Technology Center 2100, GAU 2143 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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OCT 25 2004

OFFICE OF PETITIONS

In re Application of :
Sorenson et al. :
Application No. 10/113,901 : ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 2827-4722.1US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed October 4, 2004.

The submission is accepted.

The change of status to large entity has been entered and made of record.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

APR 27 2010

OFFICE OF PETITIONS

In re Patent No. 6,767,543 :
Issue Date: July 27, 2004 :
Application No. 10/113,903 : NOTICE
Filed: March 29, 2002 :
Attorney Docket No. 11702-003004 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
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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GREENLEE WINNER AND SULLIVAN
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER CO 80301

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OCT 1 4 2005

OFFICE OF PETITIONS

In re	:	
Berggren, et al.	:	DECISION REGARDING
Application No. 10/113,956	:	PATENT TERM ADJUSTMENT
Filed: March 29, 2002	:	
Patent No. 6,797,945	:	
Issued: September 28, 2004	:	

This decision is in response to the letter titled "TRANSMITTAL", filed February 9, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **DISMISSED**.

On March 1, 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 was seventy-nine (79) days. On September 28, 2004, the application issued into Patent No. 6,797,945 with a patent term adjustment of eighty-nine (89) days. Patentees submitted the instant "TRANSMITTAL" on February 9, 2005. Patentees state that they believe there was an error in their favor in the patent term adjustment calculation.

The Office determined a patent term adjustment of eighty-nine (89) days based on an adjustment for PTO delay of one hundred ten (110) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and ten (10) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. § 1.703(a)(6), reduced by thirty one (31) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

A review of the application does not reveal any error in the calculation of the patent term adjustment.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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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VERIZON
PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD
SUITE 500
ARLINGTON VA 22201-2909

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OCT 0 2 2008

OFFICE OF PETITIONS

In re Application of :
Joel WALL :
Application No. 10/113,968 : DECISION ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. RIC01012 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 16, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure s to timely pay the issue and publication fees on or before April 15, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 15, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 16, 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).

While the revival of applications abandoned for failure to timely prosecute and for failure to timely pay the issue fee are incorporated together in 37 CFR 1.137, the statutory provisions for the revival of an application abandoned for failure to timely prosecute and for failure to timely submit the issue fee are mutually exclusive. See Brenner v. Ebbert, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968). 35 U.S.C. 151 authorizes the acceptance of a delayed payment of the issue fee, if the issue fee "is submitted ... and the delay in payment is shown to have been unavoidable." 35 U.S.C. 41(a)(7) likewise authorizes the acceptance of an "unintentionally delayed payment of the fee for issuing each patent." Thus, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof. The Notice of Allowance requires the timely payment of the issue fee in effect on the date of its mailing to avoid abandonment of the application. In instances in which there is an increase in the issue fee by the time of payment of the issue fee required in the Notice of Allowance, the Office will mail a notice requiring payment of the balance of the issue fee then in effect. See In re Mills, 12 USPQ2d 1847, 1848 (Comm'r Pat. 1989). The phrase "for failure to pay the issue fee or any portion thereof" applies to those instances in which the applicant fails to pay either the issue fee required in the Notice of Allowance or the balance of the issue fee required in a subsequent notice. In such instances, the reply must be the issue fee then in effect, if no portion of the issue fee was previously submitted, or any outstanding balance of the issue fee then in effect, if a portion of the issue fee was previously submitted. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. Even if an application abandoned for failure to pay the publication fee is being revived solely for purposes of continuity with a continuing application, the petition to revive under 37 CFR 1.137 must include payment of the publication fee.

Applicant has previously paid $1400 towards the Issue Fee on July 13, 2007. However, as noted on the Notice of Allowance and Fees(s) Due (PTOL-85) mailed January 15, 2008, the current Issue Fee due is $1440. Effective October 02, 2008, the Issue Fee is $1510. Applicant is reminded that required reply under 37 CFR 1.137 includes the Issue Fee in effect or any outstanding balance fee of the issue fee in effect.

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 Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD
SUITE 500
ARLINGTON VA 22201-2909

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JAN 24 2008

OFFICE OF PETITIONS

In re Application of	:	
James A. Robertson et al	:	
Application No. 10/113,969	:	DECISION GRANTING PETITION
Filed: March 29, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. RIC01011	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 21, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 2, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

SUGRUE, MION, ZINN, MACPEAK, & SEAS
2100 Pennsylvania Avenue, NW
Washington DC 20037

JUN 16 2004

In re Application of:
KIMURA *et al.*
Serial No.: 10/114,035
Filed: April 3, 2002
Attorney Docket No.: **Q69092**

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 September 29, 2003, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner in the next Office action.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to Dean Reichard at (571) 272-1984.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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FEB 02 2006
OFFICE OF PETITIONS

In re Patent No. 6,961,935 :
Issued: November 1, 2005 :
Application No. 10/114,075 : PATENT TERM ADJUSTMENT
Filed: November 3, 2002 :
Atty. Dkt. No.: 016891-0843 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(D)," filed November 15, 2005.

The application for patent term adjustment ("PTA") under 37 C.F.R. § 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 6,961,935 on November 1, 2005. The instant request for reconsideration was timely filed November 15, 2005 in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 600 days. Applicant argues that the adjustment was improperly reduced 120 days in connection with an interview summary submitted June 9, 2005.

A review of the application history reveals that in accordance with 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1), an adjustment of 720 days can be attributed to the Office. The adjustment of 720 days was improperly reduced 120 days in connection with the "STATEMENT OF THE SUBSTANCE OF THE INTERVIEW" submitted June 9, 2005 in response to an examiner's interview summary. As the examiner's interview summary, mailed May 23, 2005, is ambiguous insofar as permitting applicant to submit a written response to the interview summary, the statement submitted June 9, 2005 will not deemed a failure to engage in reasonable efforts to conclude prosecution (or processing) within the meaning of 37 C.F.R. § 1.704.

Thus, at the time of issuance, the patent was entitled to a PTA 720 days, as argued by applicants. The PTA indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of 720 days.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 720 days.

The Office acknowledges submission of the required application fee of $200.00.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

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Dann, Dorfman, Herrell & Skillman
1601 Market Street
Suite 2400
Philadelphia, PA 19103-2307

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APR 25 2005

OFFICE OF PETITIONS

In re Application of :
MaryJean Sawyer, et al. :
Application No. 10/114,081 : ON PETITION
Filed: April 2, 2002 :
Attorney Docket No. Bayer.2004 :

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**.

A final Office action was mailed to applicant on March 12, 2003, which set a three (3) month shortened statutory period for reply. An amendment and request for three-month extension of time were submitted to the Office on September 11, 2003. However, the amendment did not place the application in condition for allowance. Therefore, the application became abandoned on September 13, 2003.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, an amendment after final. The amendment has been reviewed by the Examiner and it has been determined it is allowable.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 1600.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JUN 2 1 2004

OFFICE OF PETITIONS

GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE
1 RIVERFRONT PLAZA
NEWARK, NJ 07102-5497

In re Application of :
Michael G. Brown, et al. :
Application No. 10/114,099 : ON PETITION
Filed: April 2, 2002 :
Atty Docket No. EMCORE 2 CONTINUATION :

This is a decision on the petition, filed June 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2813 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 8

KIRKPATRICK & LOCKHART LLP
75 STATE STREET
BOSTON MA 02109-1808

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JUL 0 3 2003

OFFICE OF PETITIONS

In re Application of
Kuiper, et al.
Application No. 10/114,103
Filed: April 1, 2002
Attorney Docket No. K0001/7001

ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 27, 2003.[1]

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a PCT international application filed on March 28, 2003. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

---

[1] A petition was previously filed on May 27, 2003. However, this petition was improper because it lacked a signature from the attorney of record, and it failed to provide the date of the foreign filed application.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of October 9, 2003 accompanies this decision on petition.

The application is being forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request
(1 page)

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

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JUN 19 2007

OFFICE OF PETITIONS

In re Patent No. 7,156,857 :
Issue Date: January 2, 2007 :
Application No. 10/114,128 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. 53375/1464 :

This is a decision on the petition filed January 26, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to delete 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 undersigned at (571) 272-3204. 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Ahn et al.

Patent No.: 6,790,684 B2

Issued: September 14, 2004

For: WAFER ON WAFER PACKAGING AND METHOD OF FABRICATION FOR FULL-WAFER BURN-IN AND TESTING

Attorney Docket No.: 2269-4248.2US

VIA ELECTRONIC FILING
August 15, 2007

OK TO ENTER: /J.m.m./

06/08/2008

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT OFFICE MISTAKES (37 C.F.R. § 1.322)

Attn.: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

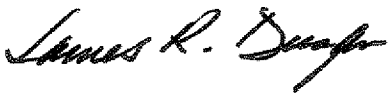
It is noted that several errors appear in this patent of a typographical nature. These errors are due to mistakes in printing on the part of the U.S. Patent and Trademark Office, and occurred through no fault of the Applicants. A certificate of correction in the form attached hereto is requested.

Please send the Certificate to:

Name: James R. Duzan
Address: TraskBritt
P.O. Box 2550
Salt Lake City, Utah 84110

Attached hereto is Form PTO/SB/44 suitable for printing.

Respectfully submitted,



James R. Duzan
Registration No. 28,393
Attorney for Applicant(s)
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: August 15, 2007
JRD/csw

Enclosures: PTO/SB/44

Document in ProLaw

PTO/SB/44 (06-07)
Approved for use through 06/30/2007. 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	:	6,790,684 B2
APPLICATION NO.	:	10/114,134
ISSUE DATE	:	September 14, 2004
INVENTOR(S)	:	Kie Y. Ahn and Leonard Forbes

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

On the title page:

In ITEM (56) References Cited:

PAGE 1, 2ND COLUMN, 26th LINE, after "FOREIGN PATENT DOCUMENTS" and "JP 09-232256 * 5/1997" insert

-- OTHER PUBLICATIONS--

--Su et al., "Experimental Results and Modeling Techniques for Substrate Noise in Mixed-Signal Integrated Circuits," IEEE Journal of Solid-State Circuits, Vol. 28, No. 4, April 1993, pps. 420-430.--

--Krishnamoorthy et al., "Ring Oscillators with Optical and Electrical Readout Bases on Hybrid GaAs MQW Modulators Bonded to 0.8 μm Silicon VLSI Circuits," Electronic Letts, 26th October 1995, Vol. 31, No. 22, pps. 1917-1918.--

In the specification:

COLUMN 2,	LINE 37,	change "5,866,535" to --5,886,535--
COLUMN 14,	LINE 58,	change "contaminantes" to --contaminants--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

James R. Duzan
TRASKBRITT
230 South 500 East, Suite 300
Salt Lake City, Utah 84102 USA

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.
SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/44 (06-07)
Approved for use through 06/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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CERTIFICATE OF CORRECTION

PATENT NO : 6,790,684 B2
APPLICATION NO. : 10/114,134
ISSUE DATE : September 14, 2004
INVENTOR(S) : Kie Y. Ahn and Leonard Forbes

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

In the claims:

CLAIM 98, COLUMN 26, LINE 14, change "visa" to --vias--
CLAIM 100, COLUMN 26, LINE 24, change "visa" to --vias--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

James R. Duzan
TRASKBRITT
230 South 500 East, Suite 300
Salt Lake City, Utah 84102 USA

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/19/07

Paper No.: —

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/114134 Patent No: 6790684 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** J.m.m. — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Carl Whitehead Jr
Digitally signed by Carl Whitehead Jr
DN: cn=Carl Whitehead Jr, c=US, o=Technology Center 2800, ou=Art Unit 2813, email=carl.whitehead@uspto.gov
Reason: I have reviewed this document
Date: 2008.08.22 07:17:25 -04'00'

SPE 2813 **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : ~~6/20/05~~ 7/25/06

Paper No.: _____

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/114138 Patent No.: 6814631

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: _____

TCP-ltu

SPE

2833/2839

Art Unit

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QUARLES AND BRADY LLP
ONE SOUTH PINCKNEY STREET; FIRSTAR PLAZA
P O BOX 2113, SUITE 600
MADISON, WI 53701-2113

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JUN 2 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Frederick R. Blattner et al :
Application No. 10/114,170 :
Filed: April 1, 2002 :
Attorney Docket No. 960296.99110 :

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed March 26, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/110,955, filed December 4, 1998, as set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR § 1.78(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

The instant pending nonprovisional application was filed on April 1, 2002, and was pending at the time of filing of the instant petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the "Declaration for Utility or Design Patent Application" filed with the above-identified application.

The current procedure 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). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the

application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the above-noted, prior-filed provisional application in the declaration filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1,330 fee assessed to the instant petition is unnecessary and will refunded to petitioner's Deposit Account No. 17-0055 in due course.

Any questions concerning this decision on petition may be directed to the undersigned at (703) 305-8680. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center 1600 for appropriate action on the amendment filed March 26, 2004, including consideration of the claim under 35 U.S.C. § 119(e).

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FASSE PATENT ATTORNEYS P.A.
P.O. BOX 726
HAMPDEN, ME 04444-0726

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NOV 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Taiji Hosaka et al :
Application No. 10/114,197 : ON PETITION
Filed: April 1, 2002 :
Attorney Docket No. 4337 :

This is a decision on the petition, filed November 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 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 (571) 272-3220.

This matter is being referred to Technology Center AU 2833 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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).

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FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN, ME 04444-0726

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MAR 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Taiji Hosaka et al :
Application No. 10/114,198 :
Filed: April 1, 2002 :
Attorney Docket No. 4336

ON PETITION

This is a decision on the petition, filed March 4, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 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 Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 1772 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/06/05

TO SPE OF : ART UNIT 2832

SUBJECT : Request for Certificate of Correction on Patent No.: 10/114226 6864767

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

A. Green

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

CORRECTIONS ARE FOR TYPOGRAPHICAL ERRORS.

[signature]

SPE

AU-2832

Art Unit

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MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of :
Shui-On Leung et al :
Serial No.: 10/114315 : WITHDRAWAL OF ATTORNEY
Filed: April 3, 2002 :
Attorney Docket No.: 018733-1013 :

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

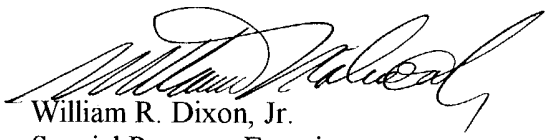
37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.



William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Otomo, Takayoshi :
Application No. 10/114,374 :
Filed: April 1, 2002 :
Attorney Docket No. TSL-1714 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 25, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed June 12, 2003. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on October 12, 2003. A Notice of Abandonment was mailed on December 31, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 10/682,445.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 05/12/2010

Applicant	: Scott S. Lee	: DECISION ON REQUEST FOR
Patent Number	: 7616637	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/114,394	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1312** 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.