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Ansel M. Schwartz
201 N. Craig Street, Suite 304
Pittsburgh PA 15213

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Campbell	:	
Application No. 10/114,402	:	DECISION ON PETITION
Filed: March 27, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. FORE-91	:	

This is a decision on the petition, filed April 13, 2007 (certificate of mailing date April 11, 2007), 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 27, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and /or Notice of Foreign Filing which sets forth the projected publication date of August 9, 2007 accompanies this decision on petition.

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

This application is being returned to Technology Center Art Unit 2145 for consideration of the amendment filed on February 23, 2007 (certificate of mailing date February 21, 2007).

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request and /or Notice of Foreign Filing

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/114,402	03/27/2002	Robert Craig Campbell	FORE-91

CONFIRMATION NO. 7559

Ansel M. Schwartz
201 N. Craig Street, Suite 304
Pittsburgh, PA 15213

Date Mailed: 05/04/2007

Communication Regarding Rescission Of Nonpublication Request and/or 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 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 08/09/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, 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), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, 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 (571) 272-3282. 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, for purpose of this notice, 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".

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REED & EBERLE LLP
800 MENLO AVENUE, SUITE 210
MENLO PARK CA 94025

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FEB 0 6 2004
OFFICE OF PETITIONS

Applicant: Grubbs et al.
Appl. No.: 10/114,418
Filing Date: April 1, 2002
Title: CROSS-METATHESIS REACTION OF FUNCTIONALIZED AND SUBSTITUTED OLEFINS USING GROUP 8 TRANSITION METAL CARBENE COMPLEXES AS METATHESIS CATALYSTS
Attorney Docket No.: 1950-0007
Pub. No.: US 2003/0100776 A1
Pub. Date: May 29, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on August 4, 2003 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

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

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JAN 30 2006

REED INTELLECTUAL PROPERTY LAW GROUP
800 MENLO AVENUE, SUITE 210
MENLO PARK, CA 94025

In re Application of	:
Robert H. Grubbs et al	:
Serial No.: 10/114,418	: PETITION DECISION
Filed: April 1, 2002	:
Attorney Docket No.: 1950-0007	:

This is in response to the petition under 37 CFR 1.144, filed November 4, 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. 111 on April 1, 2002, and contained claims 1-66. In a first Office action, mailed June 17, 2003, the examiner set forth a restriction requirement under 35 U.S.C. 121, as follows:

> Group I – Claims 1-20, drawn to a process of preparing a functionalized olefin;
> Group II – Claims 21-22, drawn to a process of synthesizing various olefins;
> Group III – Claims 23-38, drawn to a process of synthesizing a halogenated olefin;
> Group IV – Claims 39-52, drawn to a process of synthesizing a substituted olefin;
> Group V – Claims 53-59, drawn to a process of synthesizing a disubstituted olefin;
> Group VI – Claims 60-66, drawn to a transition metal complex.

The examiner also required if one of Groups I-V were elected an election of a species for the process of use; and if Group VI were elected the election of a single species. The examiner also noted that when a species was identified, the examiner would then determine the scope of independent invention to be examined (page 5). The examiner supported the restriction by arguing that with Groups I-V, the processes were directed to compounds which are art recognized as independent and distinct. Also that Group VI was to compounds and therefore independent from the process claims.

Applicants replied on August 20, 2003, electing Group I and a species (Example 4). The restriction requirement was not traversed.

The examiner mailed a non-Final Office action to applicants on November 3, 2003, acknowledging applicants' election of Group I and the species elected. The examiner then

confirmed the species elected and, as a consequence, held claims 3 and 17-66 as withdrawn from consideration. Claims 1-2 and 4-16 were then objected to as containing non-elected subject matter. No art was applied against the claims

Applicants replied on April 12, 2004, amending claim 20, canceling claims 21-66 and adding claims 67-72. Applicants argued the objection to claims 1-2 and 4-16 as containing non-elected subject matter and the withdrawal of claims 3 and 17-20, noting that it was improper for the examiner to determine the scope of the invention to be claimed as per *In re Weber* and other court decisions.

The examiner mailed a Final Office action to applicants on August 20, 2004, setting a three month shortened statutory period for reply. The examiner continued to hold claims 3 and 17-20 as well as new claim 67-72 as withdrawn and continued to object to claims 1-2 and 4-16 as containing non-elected subject matter. The examiner replied to the election/restriction arguments of applicants by arguing restriction practice – that there are independent and distinct inventions claimed and that they lack unity, search burden on the examiner and that it is not improper for the Office to limit applicants' claims to a single independent invention. The examiner maintained the claim objections and made the Office action Final.

Applicants replied to the Office action on November 22, 2004, by adding claims 73-81 and traversing the examiner's arguments with regard to the holding of non-elected subject matter. The examiner mailed an Advisory Action to applicants on January 7, 2005, denying entry of the amendment based on addition of claims without cancellation of any other claims and as not being persuasive.

Applicants then filed RCE papers on January 24, 2005, requesting that the amendment filed November 22, 2004 be entered and considered. The examiner then mailed a new Final Office action to applicants on April 12, 2005, again rejecting applicants' arguments that the election/restriction now set forth by the examiner is improper for the reasons previously given. Again, no prior art was applied and the Office action was made Final.

Applicants filed an amendment after Final Office action on August 15, 2005, presenting the same arguments as in the previous reply. Applicants also filed a Notice of Appeal on September 15, 2005. The examiner mailed an Advisory action to applicants on September 1, 2005, entering the reply, but maintaining that it did not place the case in condition for allowance.

Applicants filed this petition on November 4, 2005, requesting the Director to reverse the examiner's actions with respect to the holding of non-elected subject matter.

DISCUSSION

Applicants argue in the petition that the examiner made a proper restriction requirement in the first Office action dividing the claims into six Groups to which they made a proper election of Group I **without traverse** and eventual cancellation of claims to all of the non-elected Groups. The examiner also required an election of species within whichever group was elected and applicants complied therewith. Following the election of species, however, the examiner

arbitrarily set forth a scope of elected subject matter of Group I to which the examination would be limited based on the species identified. In subsequent actions the examiner treated this scope limiting action as a further restriction requirement and attempted to support the action by arguments relating to independent and distinct inventive subject matter, undue search burden, etc. Applicants have consistently argued that following an election of species the examiner is required to follow the guidelines of M.P.E.P. 803.02. The examiner has not applied any art against the limited scope of the claims examined, but has only objected to the pending claims as containing non-elected subject matter (as determined by the limited scope set forth by the examiner).

The examiner is in error in this respect. The examiner made a proper restriction requirement and grouped claims 1-20 together as being directed to a single inventive concept. Indubitably the scope of the claim includes many independent and distinct inventions, however, they are all related by some type of common structure (or process steps) and functionality. As set forth in *In re Weber*, once a species is elected it is examined for compliance with all applicable statutes for patentability. If compliance is found, then the examination is expanded to a reasonable number of related species to determine whether they also comply with the statute. No requirement is made to examine every species, but if all species considered are found to comply with the statute, then the genus is considered to comply. Notably, it is not the duty or prerogative of the examiner to determine the scope of applicants' claims (as was attempted here), but to determine whether the entire scope claimed is patentable or not.

More importantly here, the examiner has forced applicants to file a Notice of Appeal on actions by the examiner which are not reviewable by the Board of Patent Appeals and Interferences. Thus no proper Appeal Brief can be written and no proper Examiner's Answer could be written in reply thereto.

DECISION

The petition is **GRANTED**. **In view of this decision the Final Office action mailed April 12, 2005, is withdrawn as incomplete and further response thereto is not required. The Notice of Appeal is also withdrawn and no Appeal Brief is due.**

The application will be forwarded to the examiner for preparation of a new Office action. Consideration will also consider applicants' arguments filed June 11, 2004.

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

George C. Elliott
Director, Technology Center 1600

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In re Patent No. 6890931
Issue Date: May 10,2005
Application No. 10114433
Filed: April 2,2002
Attorney Docket No. 3499.1003-001

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

This is a decision on the electronic petition, filed September 3,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 3,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,890,931	2005-05-10	10/114,433	2002-04-02	3972.1000-001

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	/Mary K. Murray, Reg. No. 47813/	Date (YYYY-MM-DD)	2009-09-03
Name	Mary K. Murray	Registration Number	47813

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of	:	DECISION
KIM, Woo-Hyun	:	
Application No.: 10/114,459	:	
Filing Date: April 03, 2002	:	ON PETITION UNDER
Docket No.: 8733.600.00	:	
For: DRIVING INTEGRATED CIRCUIT UNIT FOR A LIQUID CRYSTAL DISPLAY DEVICE	:	37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on June 05, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed October 06, 2004, which set a shortened statutory period for reply of three (3) months. The application went abandoned at midnight on January 06, 2005.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the reply in the form of an amendment, paid the petition fee and made the required statement of unintentional delay. Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being referred to Technology Center AU 2675 for continued processing.

Erin P. Thomson

Erin Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

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STERNE, KESSLER, GOLDSTEIN & FOX
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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AUG 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Dante J. Marciani :
Application No. 10/114,465 :
Filed: April 3, 2002 :
Attorney Docket No. 1635.0060003 :

ON PETITION

This is a decision on the petition, filed August 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 May 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) 305-8859.

The examiner of Technology Center AU 1623 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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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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MAR 31 2009

OFFICE OF PETITIONS

In re Application of	:	
Fang et al.	:	
Application No. 10/114,478	:	ON PETITION
Filed: April 3, 2002	:	
Attorney Docket No. BHT-3092-277	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 24, 2008 and January 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

The Revocation of Power of Attorney and Appointment of New Attorneys submitted on December 24, 2008 is hereby not accepted. It has only been signed by one of the two listed inventors. 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.

Both the $810.00 petition fee and the $405.00 RCE fee were submitted twice – first on December 24, 2008 and then on January 9, 2009. Accordingly, the duplicate fees submitted on January 9, 2009 will be refunded to petitioner's credit card.

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

This matter is being referred to Technology Center AU 2135 for processing of the Request for Continued Examination under 37 CFR 1.114 filed concurrently.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: RABIN & BERDO, P.C.
1101 14TH STREET, N.W., SUITE 500
WASHINGTON, DC 20005

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JAN 3 2005

Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

In re Application of:
Craig P. Sayers et al.
Serial No.: 10/114,490
Filed: April 1, 2002
Attorney Docket No.: 100200109-1

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on the Petition For Withdrawal of Abandonment under C.F.R. § 1.181(a) filed on February 2, 2004 via facsimile transmission.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on January 13, 2004 holding the application to be abandoned for failure to timely file a proper reply to the Office action mailed on June 9, 2003. However, it is apparent that there was no abandonment in fact. The Office action was actually mailed on June 10, 2003. A review of the application file reveals that a response to the Office action mailed on June 10, 2003 was filed via facsimile transmission on September 11, 2003 but was not matched with the application file until recently. The response includes a certificate of transmission dated September 10, 2003 and thus would be a timely reply to the Office action of June 10, 2003 under the provisions of 37 C.F.R. § 1.8(a)(1).

The Notice of Abandonment mailed January 13, 2004 is **VACATED** and the holding of abandonment is withdrawn.

The application is being forwarded to the examiner in charge for appropriate action in due course. Any inconvenience due to the inadvertent abandonment of the application is greatly regretted.

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

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

OIPE JC109
JUL 0 8 2002
PATENT & TRADEMARK OFFICE

Docket No. HYS-40CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

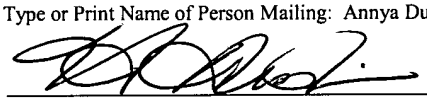
Applicant(s):	Godbole, et al.
Serial No:	10/114,500
Filed:	April 1, 2002
For:	METHODS AND MATERIALS RELATING TO FIBULIN-LIKE POLYPEPTIDES AND POLYNUCLEOTIDES

CERTIFICATE OF MAILING
UNDER 37 CFR 1.8

I hereby certify that this paper is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Commissioner for Patents, Washington, D.C., 20231.

Date of Deposit: July 1, 2002

Type or Print Name of Person Mailing: Annya Dushine



Signature of Person Mailing

PETITION UNDER 37 C.F.R. §1.47(B)

BOX MISSING PARTS
Commissioner for Patents
Washington, DC 20231

Sir:

This petition under 37 C.F.R. §1.47(b) is submitted in response to the Notice to File Missing Parts mailed on May 3, 2002, which provided a two-month deadline to July 3, 2002 for a response. This response is timely filed.

It is requested that Luisa Bigornia be allowed to act as applicant for the above-identified application on behalf of and as agent of the inventor, Shubhada Godbole, who refuses to sign. The following facts and attached documents support the grant of this petition and show that Hyseq, Inc. has sufficient proprietary interest to execute the declaration.

Accompanying this petition are:

(a) Copy of an executed Declaration for Patent Application and Power of Attorney for previous application USSN 09/802,704, filed 3/8/2001, by Bryan J. Boyle, Matthew Arterburn, Chenghua Liu, Y. Tom Tang, Radoje T. Drmanac, and

(b) Statement of Facts to Support the Filing on Behalf of the Nonsigning Inventors with Exhibits 1, 2 and 3,

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1. The above-identified U.S. Patent Application, Serial No. 10/114,500, ("'500 Application") lists Shubhada D. Godbole, Matthew Arterburn, Chenghua Liu, Y. Tom Tang, Radoje T. Drmanac as the inventors (hereafter the "Inventors").

2. Despite diligent efforts made by Annya Dushine, through the undersigned attorney, it is concluded that the Inventor refuses to execute the inventor's declaration in addition to other documents necessary towards patent issuance.

3. The Inventor's last known address is as follows:

1013 Wood Duck Avenue, Santa Clara, CA 95051

4. As shown by the accompanying Statement of Facts to Support the Filing on Behalf of the Nonsigning Inventors and Exhibits 1, 2 and 3, Hyseq, Inc. is the sole owner of all right, title and interest in the above-identified application. Exhibit 1 is a redacted agreement in which the Inventor executed an obligation to assign ownership in rights to her invention to Hyseq, Inc. Exhibit 2 shows the documents sent to the Inventor, by the undersigned attorney, requesting execution of the inventor's declaration. Exhibit 3 shows the detailed results of the Track Shipments provided by Federal Express.

5. The accompanying Statement of Facts to Support the Filing on Behalf of the Nonsigning Inventors along with Exhibits 1, 2 and 3, establish facts that support the request that Luisa Bigornia be allowed to make application, which is necessary to prevent irreparable damage.

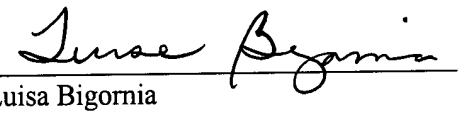
On the basis of these facts and for the foregoing reasons it is solicited that the Commissioner allow Luisa Bigornia to make application on behalf of and as agent of the Inventor who refuses to sign.

The Commissioner is hereby authorized to charge payment of the petition fee of $130.00, and any other fees which may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 501169. A duplicate copy of this sheet is enclosed.

Please refund any overpayment to Hyseq, Inc. at the address below

Respectfully submitted,

Dated: July 1, 2002

By: 

Luisa Bigornia
Attorney for Applicants
Registration No.: 45,974
HYSEQ, INC.
670 Almanor Avenue
Sunnyvale, CA 94085
(408) 524-8100
(408) 524-8145 FAX

OIPE JC109 JUL 08 2002 PATENT & TRADEMARK OFFICE

Docket No. HYS-40CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Godbole, et al.
Serial No:	10/114,500
Filed:	April 1, 2002
For:	METHODS AND MATERIALS RELATING TO FIBULIN-LIKE POLYPEPTIDES AND POLYNUCLEOTIDES

CERTIFICATE OF MAILING
UNDER 37 CFR 1.8

I hereby certify that this paper is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Commissioner for Patents, Washington, D.C., 20231.

Date of Deposit: July 1, 2002

Type or Print Name of Person Mailing: Annya Dushine

Signature of Person Mailing

STATEMENT OF FACTS TO SUPPORT THE FILING ON BEHALF OF THE NONSIGNING INVENTORS

BOX MISSING PARTS
Commissioner for Patents
Washington, DC 20231

Sir:

In support of concurrently submitted petition under 37 C.F.R. §1.47(b), I, Luisa Bigornia hereby declare the following:

1. I am a legal representative of Hyseq, Inc.

2. I have firsthand knowledge of the exact facts that are relied upon to support the concurrently filed Petition Under 37 C.F.R. § 1.47(b) so that Hyseq, Inc. be granted a patent based on the above-identified application.

3. I make the following statements to establish that the inventor Shubhada Godbole (the "Inventor") of the above-identified application refused to sign the appropriate declaration and that Hyseq, Inc. has sufficient proprietary interest to execute the declaration.

4. Hyseq, Inc. and the Inventors executed an agreement ("Agreement") that included a provision that Hyseq, Inc. shall be the exclusive owner of any and all inventions that result from the use of any and all research materials. A redacted version of the Agreement is attached herewith as Exhibit 1.

5. Among the experiments specifically contemplated by the Agreement were experiments directed towards the use of compilation of bioinformatic information, including PFam, eMatrix and BLAST data, in support of the preparation of the invention disclosure for the gene designated C228 disclosed in the above-identified application.

6. On February 20, 2002, Annya Dushine, through the undersigned attorney, sent a package that included a copy of the Declaration For Patent Application And Power Of Attorney, and a cover letter to Shubhada Godbole (attached herewith as Exhibit 2) at the address listed in the accompanying Petition Under 37 C.F.R. §1.47(b) via Federal Express. She requested in the cover letter that Shubhada Godbole sign the Declaration for previous application USSN 09/802,704 and return the executed Declaration to her by means of an enclosed prepaid courier envelope. In addition, she invited the Inventor to contact her with any questions she might have. These materials were sent to Shubhada Godbole on February 20, 2002 and receipt at her listed address was confirmed by delivery on February 21, 2002, respectively, as evidenced by the detailed results of Tracked Shipments provided by Federal Express, submitted herewith as Exhibit 3.

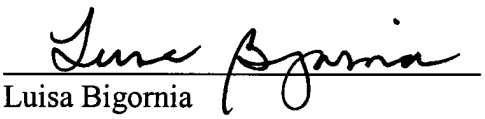
7. In response to this request for cooperation and signature, I have yet to receive any response from the Inventor. The silence regarding the Inventor's assistance in prosecuting the present application has led Hyseq, Inc. to reasonably conclude that the Inventor refuses to cooperate, particularly refusing to sign the Declaration.

8. Permitting Luisa Bigornia to sign on behalf of the nonsigning Inventors is necessary to prevent irreparable damage given that the inventor-applicants refuse to execute the inventor's declaration.

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

Respectfully submitted,

Dated: July 1, 2002

By: 

Luisa Bigornia
Attorney for Applicants
Registration No.: 45,974
HYSEQ, INC.
670 Almanor Avenue
Sunnyvale, CA 94085
(408) 524-8100
(408) 524-8145 FAX

OIPE
JUL 0 8 2002
PATENT & TRADEMARK OFFICE

Employment and Confidential Information Agreement

AGREEMENT made and entered into this 5th day of September, 2000, by and between Hyseq, Inc. of 670 Almanor Avenue, Sunnyvale, California 94086 (the "**Company**") and Shubhada Godbole (**"Employee"**).

1. The Company hereby employs Employee in such capacity or capacities as may be determined from time to time by the Company, beginning the 5th day of September, 2000, and continuing until terminated by Employee or by the Company, as hereinafter provided in Paragraph 14 which provides for at-will employment.

2. The term "client" in all paragraphs of this Agreement shall mean any person, firm, entity, company, partnership, or corporation with whom the Company has contracted, negotiated, or otherwise dealt or has attempted to contract, negotiate, or otherwise deal.

3. For all of the services rendered by Employee, the Company shall pay to Employee as compensation, the initial sum of [redacted] per year, payable semi-monthly, so long as Employee continues to render services to the Company, or such other sum in the manner and the amount as may be determined from time to time by the Company.

4. Employee shall not during the period of employment engage in any other business or sideline that interferes with Employee's ability to work for the Company, constitutes a conflict of interest, involves a disclosure of Company Confidential Information or otherwise interferes with or impacts on the Company's interests to the extent authorized by applicable law. In compliance with California Labor Code section 2863 and other applicable law, Employee will give preference to the Company's business over business transacted on his own account. During the period of employment, Employee shall perform all of the duties assigned in a manner satisfactory to the Company shall comply with Company's directions, shall use all skills possessed, shall use care and diligence in performing duties, and shall adhere to the policies, practices and operating guidelines as from time to time may be established by the Company.

5. Confidential Information of the Company

(a) Employee shall use during his or her employment and at any time thereafter his or her best efforts and exercise utmost diligence to protect and guard Confidential Information (as hereinafter defined). Except as specifically required in the performance of Employee's services for the Company, Employee will not directly or indirectly use, permit others to use, disseminate, or disclose any Confidential Information. If Employee prepares a grant, research, or similar proposal for dissemination to a third party, Employee agrees not to include any Confidential Information therein and shall first furnish to the Company those portions of the proposal that refer to the Company, its subsidiaries, or affiliates, or any of their consultants, employees, or agents, or any work done by such persons for them.

(b) Employee may lecture upon, disseminate, and publish under Employee's own name scientific papers arising from the work done in the course of performance of services for the Company hereunder, but only upon the prior written approval of the President of the Company or his or her designee. The Company will not unreasonably withhold its approval provided Confidential Information will not be disclosed by such dissemination or publication. Appropriate credit will be given to the Company in any publication.

(c) All rights, title and interest in all documents, records, notebooks, correspondence, trademarks, servicemarks, copyrights, deposits of microorganisms, cells or parts thereof, cell lines, parts and progeny thereof, and all products made thereby that directly or indirectly relate to and arise out of Employee's work under this Agreement shall belong to the Company, and upon expiration or termination of this Agreement, Employee shall turn over to the Company all such documents and material, including copies thereof, then in Employee's possession or subject to his or her control, whether prepared by him/her or others.

(d) For the purposes of this Agreement, "**Confidential Information**" shall mean information disclosed to Employee or known to Employee as a

consequence of or through performance of services for the Company, whether or not related to his or her duties at the Company, and includes trade secrets or any other like information of value relating to the business and/or field of interest of the Company or of any corporation, firm, partnership or other entity directly or indirectly controlled by or controlling the Company or in which any of the aforesaid have more than 20% ownership interest, including, but not limited to, information relating to products, inventions, disclosures, processes, systems, methods, formulas, patents, patent applications, machinery, materials, research activities and plans, cost of production, contract forms, prices, volume of sales, promotional methods, lists of names or classes of customers, customer contacts and buyer lists. Information shall be considered, for purposes of this Agreement, to be confidential if not known by the trade generally, even though such information has been disclosed to one or more third parties pursuant to distribution agreements, joint research agreements, or other agreements entered into by the Company or any of its affiliates. For purposes of this Agreement, information shall not be considered confidential to the extent that such information is or becomes, through no fault of Employee, part of the public domain, such information is independently known to Employee, or such information is lawfully furnished to Employee by a third party without restriction on disclosure.

(e) In addition to the foregoing, the Company shall also have such rights as are provided by common law or any other applicable law for the protection of confidential information.

(f) Employee recognizes that a client of the Company may have specific requirements for the protection of information and agrees to execute such documents as may be required by the client and approved in writing by the President of the Company or his or her designee.

(g) Employee understands and acknowledges that, in connection with employment by the Company, Employee shall be expected to participate in programs of training or skill development, which may be formal, informal, and/or on the job, including those involving the Company's methodology and "business processes"; and Employee further acknowledges and agrees that all records, files, documents, or other materials concerning in any manner the Company, its methods of operation, its clients, or any other facet of the business of the Company or its clients, disclosed to Employee in the course of said programs or in the course of employment, shall be deemed to be Confidential Information within the meaning of this Agreement and shall not, during the period of employment or at any time thereafter, be disclosed to others or used for Employee's own benefit, except to the extent necessary in the ordinary course of completing said program or in performing other duties assigned to Employee as an employee of the Company.

6. Confidential Information of Others

(a) Employee represents that Employee did not learn during Employee's prior employment any ideas or information which Employee's former employer indicated were considered confidential and proprietary or which were disclosed to Employee in a manner which should have made Employee realize they were so considered or, if Employee did learn of such confidential or proprietary information, that Employee has not brought and will not bring to the Company or make use of any such confidential and proprietary information, trade secrets, materials, documents or ideas during employment by the Company unless such information or ideas (i) become publicly available for reasons other that actions by Employee, (ii) are independently developed by others at or on behalf of the Company who do not receive access to such information from Employee, or (iii) are received by the Company from a third party who had possession of such information or ideas.

(b) Employee represents that Employee's performance of (i) all the terms of this Agreement and (ii) all duties as an Employee of the Company, does not and will not breach any agreement to keep in confidence confidential or proprietary information acquired by Employee in confidence or in trust prior to employment by the Company. Employee has not entered into, and Employee agrees that Employee will not enter into, any agreement, either written or oral, in conflict herewith.

(c) Employee will not bring on to the premises of the Company any unpublished document or any property belonging to his or her former or concurrent employers or companies, if any, unless consented to in writing by such former or concurrent employers or companies.

(d) Employee recognizes that the Company has received and in the future will receive from third

parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentially of such information and to use it only for certain limited purposes. Employee agrees that Employee owes the Company and such third parties, during the term of employment and thereafter, a duty to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm, or corporation (except as necessary in carrying out his or her work for the Company consistent with the Company's agreement with such third party) or to use it for the benefit of anyone other than for the Company or such third party) without the express written authorization of the Company.

7. Inventions and Other Intellectual Property

(a) Employee acknowledges and agrees that, as an employee of the Company, Employee is expected to make contributions of value to the Company. Employee agrees that all Inventions and Other Intellectual Property (as hereinafter defined) made, developed, conceived, or completed by Employee, individually or in conjunction with others during the term of this Agreement (or, which having possibly been conceived prior hereto, may be developed or completed during the term of this Agreement or thereafter) shall be the sole and exclusive property of the Company; provided such Inventions and Other Intellectual Property: (i) are made, conceived, or completed with the equipment, supplies, facilities or Confidential Information of the Company, its subsidiaries, or affiliates, or (ii) are made, conceived, or completed by Employee during the term of his or her employment with the Company unless Employee develops the invention entirely on Employee's own time without using the Company's equipment, supplies, facilities or Confidential Information, or (iii) result from any work performed by Employee for the Company; provided, however, that this Agreement does not apply to any Inventions and Other Intellectual Property that qualify fully under Section 2870 of the California Labor Code.

(b) For the purposes of this Agreement, "**Inventions and Other Intellectual Property**" shall mean any and all inventions, discoveries, concepts, trademarks, servicemarks, copyrights and ideas, whether patentable or not, including, but not limited to, processes, methods, formulas, compositions, techniques, articles, and machines, as well as improvements thereof or know-how related thereto, relating to the business and/or field of interest, including, actual or anticipated research and development, of the Company or of any corporation, firm, partnership or other entity directly or indirectly controlled by or controlling the Company or in which any of the aforesaid have more than a 20% ownership interest.

(c) Employee shall, without royalty or any further consideration to Employee therefor, but at the expense of the Company:

(i) Keep and maintain adequate and current written records of all inventions and original works of authorship made by Employee (solely or jointly with others) during the term of employment with the Company. The records will be in the form of notes, sketches, drawings, and any other format that may be specified by the Company. The records will be available and remain the sole property of the Company at all times.

(ii) As promptly as known or possessed by Employee, disclose to the Company all information with respect to any Inventions and Other Intellectual Property made solely or jointly with others during the term of employment.

(iii) Whenever so requested to do by the Company, promptly execute and assign any and all applications, assignments, and other instruments that the Company shall deem necessary to apply for and obtain letters patent of the United States and of foreign countries for said Inventions and Other Intellectual Property, and to assign and convey to the Company or to the Company's nominee the sole and exclusive right, title, and interest in and to the Inventions and Other Intellectual Property or any applications or patents thereon.

(iv) Whenever so requested to do by the Company, deliver to the Company evidence for interference purposes or other legal proceedings and testify in any interference or other legal proceedings.

(v) Do such other acts as may be necessary in the opinion of the Company to obtain and maintain United States and foreign letters patent for the Inventions and Other Intellectual Property.

(d) Employee further agrees that the obligations and undertakings stated in this Paragraph 7 shall continue beyond the termination of Employee's employment with the Company.

8. Employee acknowledges that Employee has been informed of the current policies, practices, and operating guidelines of the Company and agrees to comply with all such policies, practices, and such other policies, practices and operating guidelines as from time to time may be adopted by the Company and disclosed to him/her or of which Employee is otherwise aware.

9. Non-Competition

(a) During the term of Employee's employment with the Company, Employee will not: (i) own or have any interest, directly or indirectly, in, or act as an officer, director, agent, employee, or consultant of, or assist in any way or in any capacity, any person, firm, association, partnership, corporation, or other entity which is in competition with the Company, (ii) divert or attempt to divert any business or client from the Company, or (iii) directly or indirectly entice, induce or in any manner influence any person who is, or shall be, in the service of the Company to leave such services for the purpose of engaging in a business, or being employed by or associated with any person, firm, association, partnership, corporation or other entity, which is in competition with the Company to the extent applicable law authorizes such provisions. The language of this Agreement is intended to comply with California Business and Professions Code § 16600 and other laws allowing fair competition and is intended only to prevent unfair or unlawful competition or other conduct or practices that the Company can lawfully restrict.

(b) Employee agrees that Employee will not at any time during or after his or her employment with the Company reveal, divulge or make known to any person, firm, corporation or other entity any knowledge or information or any facts concerning any suppliers, customers, methods, processes, developments, schedules, lists or plans of or relating to the business of the Company and will retain all knowledge and information which Employee has acquired or which Employee will acquire during his or her employment therewith relating to such supplier, customers, methods, processes, developments, schedules, lists and plans and the business of the Company in trust in a fiduciary capacity for the sole benefit of the Company, its successors or assigns.

(c) In the event any court shall finally hold that any provision of this Paragraph 9 constitutes an unreasonable restriction against Employee, Employee agrees that the provision hereof shall not be rendered void but shall apply as to such extent as such court may judicially determine or indicate constitutes a reasonable restriction under the circumstances involved.

(d) The provisions for this Paragraph 9 shall survive the termination of the terms of this Agreement and shall run to and inure to the benefit of the Company, its successors and assigns.

10. Non-Solicitation

(a) Employee further covenants and agrees that Employee shall not, during the period of his or her employment, be employed by or provide services to any present or former client of the Company with whom Employee has dealt or attempted to deal in the capacity of business development, analyst, consultant, or in any other capacity without the prior written consent of the President of the Company or his or her designee.

(b) Employee shall make available to the Company any and all information of which Employee has gained knowledge during the course of his or her employment with respect to any client with which Employee has had contact.

(c) Upon termination of Employee's employment with the Company, regardless of whether Employee or the Company initiates the termination of employment, Employee shall promptly surrender to the Company all property provided him/her by the Company for use in relation to his or her employment, and, in addition, Employee shall surrender to the Company any and all sales materials, lists of clients, customers and prospective customers, price lists, files, patent applications, records, models, or other materials and information of or pertaining to the Company or its clients, customers or prospective customers or the products, business, and operations of the Company.

11. It is mutually agreed between the parties that the breach of any of the terms of this Agreement by Employee will cause irreparable injury to the Company, not fully compensable by damages in an

action at law, and the rights and remedies of the Company hereunder may therefore be enforced both at law and in equity, by injunction or otherwise; and the rights and remedies of the Company hereunder shall be cumulative and not alternative.

12. It is mutually understood and agreed that all agreements and covenants contained herein are severable and that, in the event any of them shall be held to be invalid or unenforceable to any extent or in any application by any court, then the remainder of this Agreement, and such agreement or covenant except to such extent or in such application, shall not be affected hereby, and each and every agreement and covenant of this Agreement shall be valid and enforced to the fullest extent and in the broadest application permitted by law.

13. This Agreement shall be governed, interpreted and enforceable pursuant to the laws of the State of California. The Company and Employee agree that either the United States District Court for the Northern District of California (Ninth Circuit) or the Superior Court of the State of California in and for the County of Santa Clara shall be the exclusive forum for the resolution of any controversies or disputes hereunder.

14. **Employee acknowledges that his or her employment with the Company is at will and the Company may terminate his or her employment at any time with or without notice and for any reason or no reason at the discretion of the Company. Employment and compensation may be terminated or modified with or without cause and with or without notice by the Company. Terms and conditions of employment with the Company except for the at-will nature of the employment relationship may be terminated or modified at the sole discretion of the Company with or without cause and with or without notice. The at-will employment relationship is the only agreement as to the duration and nature of the employment relationship and cannot be changed verbally or in writing unless a writing expressly states that it is modifying the at-will nature of the employment relationship and unless such writing is signed by Employee and the President of the Company. There is no agreement, express or implied, written or verbal, between Employee and the Company for any specific period of employment, for continuing or long-term employment, or for guaranteed terms and conditions of employment. The at-will agreement supersedes any prior agreements, promises or representations.**

15. Employee represents and agrees that Employee has had the opportunity to discuss all aspects of this Agreement with his or her advisors, including an attorney, if any, and that Employee has carefully read and fully understood all of the provisions herein. Employee agrees that Employee is responsible for any costs, expenses and attorney's fees Employee may have incurred in reaching this Agreement. Employee has had an opportunity to ask questions and suggest alternative language. Employee agrees that the presumptions against the drafter of a document shall not apply to any dispute regarding interpretation of this Agreement. Employee acknowledges that, in executing this Agreement, Employee does not rely and has not relied on any representations or statements made by the Company or by any of the Company's agents or representatives with regard to the subject matter, basis or effect of this Agreement or otherwise. This Agreement incorporates the entire understanding between Employee and the Company, recites the sole considerations for the promises exchanged, and fully supersedes any and all prior agreements or understandings (written, oral, or implied) between Employee and the Company pertaining to the subject matter of this Agreement. In reaching this Agreement, Employee has not relied on any statement or representation except those expressly stated in this Agreement.

16. This Agreement shall become binding upon Employee immediately upon his or her signing. This Agreement shall become binding on the Company when signed by a person authorized by the Board of Directors of the Company.

17. No termination or amendment of this Agreement or any provision hereof, or waiver of any right or remedy herein provided, shall be effective for any purpose unless specifically set forth in writing, that is signed by the party or parties to be bound thereby and that expressly states that it is modifying this "Employment and Confidential Information Agreement." The waiver of any right or remedy in respect of any occurrence or event on one occasion shall not be deemed a waiver of such right or remedy in respect of the same or any similar occurrence or event on any other occasion.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

HYSEQ, INC.

By: _____
Name: Mark Gitter
Title: Chief Financial Officer

EMPLOYEE

_____
Name: Shubhada Godbole

Docket No.: HYS-40

DECLARATION FOR PATENT APPLICATION AND POWER OF ATTORNEY

As [a] below named inventor(s), I/we hereby declare that:

Shubhada D. Godbole, Bryan J. Boyle, Matthew C. Arterburn, Chenghua Liu, Y. Tom Tang, Radoje T. Drmanac

My/our residence, post office address and citizenship is/are as stated below next to my/our name(s).

I/we believe I/we am/are an/the original, first and sole/joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: METHODS AND MATERIALS RELATING TO FIBULIN-LIKE POLYPEPTIDES AND POLYNUCLEOTIDES, the specification of which

____ is attached hereto.

__X__ was filed on 03/08/2001 as Application Serial Number 09/802,704

I/We hereby state that I/we have reviewed and understand the contents of the above-identified specification, including the claims as amended by any amendment referred to above.

I/We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

I/We hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate, listed below and so identified, and I/we have also identified below any foreign application for patent or inventor's certificate on this invention filed by me or my legal representatives or assigns and having a filing date before that of the application on which priority is claimed:

NUMBER	COUNTRY	DAY/MONTH/ YEAR FILED	PRIORITY CLAIMED - YES OR NO

I/We hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I/we acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

SERIAL NUMBER	FILING DATE	STATUS
09/560,875	April 27, 2000	Pending
09/496,914	February 03, 2000	Pending

I hereby appoint the following attorneys and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Attorney or Agent	**Registration No.**	**Attorney or Agent**	**Registration No.**
Kevin Ainsworth	39,586	Shane Hunter	41,858
Ingrid Beattie	42,306	David E. Johnson	41,874
William Belanger	40,509	Christina Karnakis	45,899
Charles E. Bell	48,128	Kristin E. Konzak	44,848
Naomi Biswas	38,384	Cynthia Kozakiewicz	42,764
Bradford C. Blaise	47,429	Barry J. Marenberg	40,715
Sean M. Coughlin	48,593	A. Jason Mirabito	28,161
David F. Crosby	36,400	Michel Morency	P-50,183
Christopher J. Cuneo	42,450	Carol H. Peters	45,010
Brian C. Dauphin	40,983	Matthew Pavao	P-50,572
Brett N. Dorny	35,860	David Poirier	43,007
Marianne Downing	42,870	Michael Renaud	44,299
Ivor R. Elrifi	39,529	Brian Rosenbloom	41,276
Heidi A. Erlacher	45,409	Robert J. Sayre	42,124
John M. Garvey	37,833	C. Eric Schulman	43,350
James G. Gatto	32,694	Gregory J. Sieczkiewicz	48,223
Richard Gervase	46,725	Thomas M. Sullivan	39,392
Matthew J. Golden	35,161	Janine Susan	46,119
Sonia K. Guterman	44,729	Nicholas P. Triano III	36,397
John A. Harre	37,345	Howard Susser	33,556
Brian P. Hopkins	42,669		

all of MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO PC, as Applicant's attorneys with full power of substitution and revocation to take any and all action necessary with regard to the above-identified patent.

and

Petrina Hsi, Reg. No. 38,496, Li-Hsien Rin-Laures, M.D., Reg. No. 33,547 and Luisa Bigornia, Reg. No. 45,974 of HYSEQ, INC., 675 Almanor Avenue, Sunnyvale, CA 94086.

Please address all telephone calls to Ivor R. Elrifi at telephone number 617/348-1747. Please address all correspondence to:

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

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

Full name of first joint inventor: Shubhada D. Godbole

Inventor's signature: _____ Date: _____

Residence and Post Office Address: 1013 Wood Duck Avenue, Santa Clara, CA 95051

Citizenship: India

Full name of second joint inventor: Bryan J. Boyle

Inventor's signature: _____ Date: _____

Residence and Post Office Address: 1947 10th Ave, San Francisco, CA 94116

Citizenship: United States of America

Full name of third joint inventor: Matthew C. Arterburn

Inventor's signature: _____ Date: _____

Residence and Post Office Address: 15840 Union Ave., Los Gatos, CA 95032

Citizenship: United States of America

Full name of
fourth joint inventor: Chenghua Liu

Inventor's signature: _____ Date: _____

Residence and Post
Office Address: 1125 Ranchero Way, Apt. # 14, San Jose, CA 95117

Citizenship: People's Republic of China

Full name of
fifth joint inventor: Y. Tom Tang

Inventor's signature: _____ Date: _____

Residence and Post
Office Address: 4230 Ranwick Court, San Jose, CA 95118

Citizenship: United States of America

Full name of
sixth joint inventor: Radoje T. Drmanac

Inventor's signature: _____ Date: _____

Residence and Post
Office Address: 850 East Greenwich Place, Palo Alto, CA 94303

Citizenship: United States of America

OIPE JC109 JUL 0 8 2002 PATENT & TRADEMARK OFFICE

From: ANNYA DUSHINE (408)746-4592
HYSEQ, INC
675 ALMANOR AVENUE

SUNNYVALE, CA, 94085

REVENUE BARCODE

FedEx.

To: Shubhada D. Godbole (408)615-1723

1013 Wood Duck Avenue

Santa Clara, CA, 95051

SHIP DATE: 20FEB02
WEIGHT: 1 LBS

Ref:

RELEASE# 3785346

DELIVERY ADDRESS BARCODE(FEDEX-EDR)

TRK # 7903 1614 6742 FORM 0201

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Deliver by:
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Zone	2
Pieces	1
Weight	1.0 lbs, 0.5 kgs
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Service	
Area Code	AA
Signed by	3785346
Bundle ID	000

675 [redacted] NOR AVE
SUNNYvALE CA 94085-2934 US

[redacted] ROOSER ROAD
JOSE CA 95118 US

Transportation Charge	13.2
Discount	-2.2
Residential Delivery	1.3
Total Transportation Charges	**USD $ 12.3**

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Tracking ID	790316142791
Service Type	FedEx Standard Overnight
Package Type	FedEx Pak
Zone	2
Pieces	1
Weight	1.0 lbs, 0.5 kgs
Delivered	Feb 21, 2002 12:59
Service	
Area Code	A1
Signed by	3785346
Bundle ID	000

Sender
ANNYA DUSHINE
HYSEQ PHARMACEUTICALS
675 ALMANOR AVE
SUNNYVALE CA 94085-2934 US

61

Recipient
VINOD ASUNDI
709 FOSTER CITY BLVD.
SAN MATEO CA 94404 US

Transportation Charge	13.25
Discount	-2.25
Residential Delivery	1.35
Total Transportation Charges	**USD $ 12.35**

Picked up: Feb 20, 2002 **Payor: Shipper** **Reference: NO REFERENCE INFORMATION** FedEx Internal Use: 423587024/01283/_/02

- Distance Based Pricing, Zone 2
- Release signature on file.

Tracking ID	790316146742
Service Type	FedEx Standard Overnight
Package Type	FedEx Pak
Zone	2
Pieces	1
Weight	1.0 lbs, 0.5 kgs
Delivered	Feb 21, 2002 12:07
Service	
Area Code	AA
Signed by	3785346
Bundle ID	000

Sender
ANNYA DUSHINE
HYSEQ PHARMACEUTICALS
675 ALMANOR AVE
SUNNYVALE CA 94085-2934 US

61

Recipient
SHUBHADA D. GODBOLE
1013 WOOD DUCK AVENUE
SANTA CLARA CA 95051 US

Transportation Charge	13.25
Discount	-2.25
Residential Delivery	1.35
Total Transportation Charges	**USD $ 12.35**

HYS-40

HYSEQ INC.

February 20, 2002

VIA FEDERAL EXPRESS

Shubhada D. Godbole
1013 Wood Duck Avenue
Santa Clara, CA 95051

Re: Hyseq Patent Applications

Dear Shubhada:

Enclosed please find Declaration and Power of Attorney documents that require your signature. Please sign and date the documents where indicated and return them to me as soon as possible in the return Federal Express envelope I have enclosed for your convenience. Before signing the documents, please verify that all your information is correct. If any changes need to be made, cross out the incorrect information, write in the correct information and initial and date next to the change. Just as a reminder, under the employment agreement you signed with Hyseq, you have an obligation to assign all inventions to the corporation. Therefore, I would appreciate your signing the enclosed documents and would like to thank you in advance for your cooperation.

Please do not hesitate to contact me at 408-746-4592 or annya@hyseq.com if you have any further questions or concerns.

Sincerely,

Annya Dushine

Enclosures

670 ALMANOR AVENUE • SUNNYVALE CALIFORNIA 94085 • TEL: (408) 524-8100 • FAX: (408) 524-8145

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

Ivor Elrifi
Mintz, Levin, Cohn, Ferris
Glovsky, and Popeo, PC
One Financial Center
Boston, MA 02111

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JAN 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Godbole, Boyle, Arterburn, Liu, Tang, and Drmanac :
Application No.: 10/114,500 :
Filed: May 1, 2002 :
Attorney Docket No:HYS-40 : ON RENEWED PETITION
For: METHODS AND MATERIALS RELATING TO :
FIBULIN-LIKE POLYPEPTIDES AND :
POLYNUCLEOTIDES :

This is in response to the renewed petition under 37 CFR 1.47(a), filed December 16, 2002 (certificate of mailing dated December 9, 2002.)

The petition is **MOOT.**.

The initial petition under 37 CFR 1.47(a) was filed on July 8, 2002, in response to a "Notice to File Missing Parts of Non-Provisional Application" (the "Notice") which indicated that a proper oath or declaration had not been filed and that a surcharge for either a late filing fee or oath or declaration was due and owing. A decision dismissing the petition of July 8, 2002, was mailed on October 10, 2002. The decision indicated that petitioner did not provided adequate evidence that the entire application was sent to the non-signing inventor for his review and signature. The decision also advised petitioner of the two-month period for reply beginning from the mailing date of the decision and that extension of time for reply were available pursuant to 37 CFR 1.136(a). On December 16, 2002, petitioner filed a renewed petition. Petitioner also filed a declaration executed by inventor Godbole who was previously the non-signing inventor.

As petitioner has secured a proper oath or declaration from inventor Godbole, there is no outstanding issue relative to the instant application that could be remedied by a petition filed pursuant to 37 CFR 1.47(a). The renewed petition is, therefore, rendered moot by the filing of inventor Godbole's declaration.

Petitioner is advised that the power of attorney could not be affected because it was not executed by all the named inventors. All the named inventors, except inventor Godbole, executed a declaration and power of attorney naming the firm of Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, PC as counsel of record. In order to effect a change in the power of attorney, all named

inventors, must sign a document indicating that such a change should be made. While a courtesy copy of this decision will be mailed to petitioner at the address as provided on the petition, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned (703) 305-0010.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
Luisa Bigornia
Hyseq, Inc.
670 Almanor Avenue
Sunnyvale, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

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OCT 1 0 2002

OFFICE OF PETITIONS

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

In re Application of
Godbole, Boyle, Arterburn, Liu, Tang, and Drmanac
Application No. 10/114,500
Filed: May 1, 2002
Attorney Docket No. HYS-40
For: METHODS AND MATERIALS RELATING TO FIBULIN-LIKE POLYPEPTIDES AND POLYNUCLEOTIDES

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed July 8, 2002.

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a). Failure to respond will result in abandonment of the application. Extensions of time are available and will be governed by 37 CFR 1.136(a).

The above-cited application was filed without a properly executed oath or declaration. In response, the Office mailed a "Notice to File Missing Part of Non-Provisional Application" (the "Notice") on May 3, 2002. The Notice set forth a period for reply of two months. On March 9, 2001, in response to the Notice, petitioner filed the instant petition and supplementary evidentiary documents.

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 lacks item (1) as set forth above.

As to item (1), sufficient proof was not provided that the entire application was sent to inventor Godbole not just the declaration and power of attorney. Guidance as to what is required to be sent to the non-signing inventor before a refusal to sign can be alleged is found in the *Manual of Patent Examining Procedure,* Section 409.03(d), which reads, in pertinent part,:

> 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.

It appears from the instant petition and the letter of February 20, 2002, from Annya Dushine to the non-signing inventor that all that was sent to the non-signing inventor was the declaration and power of attorney. There is no indication from any of the other documents filed with the instant petition that the entire application was sent to the non-signing inventor as required. It is, therefore, concluded that Item (1) above has not been satisfied.

Petitioner is also advised that the 37 CFR 1.47(a) governs the instant petition, not 37 CFR 1.47(b) as petitioner cites in the instant petition. 37 CFR 1.47(b) governs situations where all of the named inventors either refuse to sign the declaration or cannot be located. Where some of the named inventors have executed the declaration, but one (or more) of the joint inventors refuses to sign the declaration or cannot be located, the governing statute is 37 CFR 1.47(a). Any reconsideration filed should cite 37 CFR 1.47(a) as the governing legal authority and should meet the requirements thereof.

The address as cited on the instant petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address as cited on the instant petition, petitioner is advised that all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

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) 308-6919
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, Virginia

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
Luisa Bigornia
HYSEQ, Inc.
670 Almanor Avenue
Sunnyvale, California 94085

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. 5

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO FL 32802-3791

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OFFICE OF PETITIONS

In re Application of
Steven M. Robinson et al.
Application No. 10/114,531
Filed: April 1, 2002
Attorney Docket No. 14072-018001 / W 596

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed December 15, 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. Steven M. Robinson, Madison, Alabama
2. Ralph R. Boudreaux, Madison, Alabama
3. John S. McGary, Petersburg, Tennessee
4. John B. Wilkes, Jr., Harvest, Alabama

This application is being forwarded to Technology 2644 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

Michael A. O'Neil. P.C.
8150 North Central Expressway
Suite 1150
DALLAS TX 75206

In re Application of :
Philip Grosso :
Patent No. 6,525,230 : NOTICE
Application No. 10/114,579 :
Filed: April 2, 2002 :
Attorney Docket No. 300100-1052

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

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

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

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

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Larissa Piccardo appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Larissa Piccardo 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 Larissa Piccardo, 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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **BAKER BOTTS L.L.P.**
One Shell Plaza
910 Louisiana
Houston, TX 77002

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

WINSTON & STRAWN
PATENT DEPARTMENT
1400 L STREET, N.W.
WASHINGTON DC 20005-3502

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JAN 22 2003

OFFICE OF PETITIONS

In re Application of :
Yoakim, et al. :
Application No. 10/114,582 : ON PETITION
Filed: April 1, 2002 :
Attorney Docket No.: 88265-6246 :
For: COFFEE MACHINE WITH INTEGRATED:
STEAM DELIVERY DEVICE :

This is a decision on the petition under 37 CFR 1.182, filed November 12, 2002 to accord the application a filing date of April 1, 2002.

The petitioner is **GRANTED**.

The application was deposited April 1, 2002 without drawings. On May 20, 2002, applicant submitted formal drawing figures 1-5. In response to receipt of a filing receipt according the application a filing date of May 20, 2002, the instant petition was filed. Petitioner acknowledges submitting the application without the requisite drawings, however, petitioner contends the application as filed specifically incorporated by reference International application PCT/EP00/09511.

A search of the official file reveals that on 10 April, 2002, a specification was filed which states in the first line that the present application is a continuation of application No. PCT/EP00/09511, filed on 28 September, 2000, "the content of which is expressly incorporated herein by reference thereto."

MPEP 201.06(c) permits the entering of a portion of the prior application into a continuation or divisional application when the portion of the prior application was inadvertantly omitted from the continuation or divisional application. Based on petitioners' representation that the papers supplied with the petition constitute a copy of the prior application, and the incorporation by reference statement appearing in the first line of the specification deposited on 10 April, 2002, stating that the entire disclosure of Application No. PCT/EP00/09511 "is expressly incorporated herein by reference thereto," it is appropriate, on petition, to accord the application the requested filing date.

The petition is granted. Since the petition fee was required to accord the requested filing date, the petition fee will not be refunded.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 1 April, 2002, using the application papers filed on that date and the copy of five (5) sheets of drawings supplied on 20 May, 2002.

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

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

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Paper No. 8

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego CA 92121-1714

In re Application of
Vladislav Sorokine, et al.
Application No. 10/114,588
Filed: April 1, 2002
For: **SOFT HANDOFF ALGORITHM AND WIRELESS COMMUNICATION SYSTEM FOR THIRD GENERATION CDMA SYSTEMS**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed June 2, 2004 to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed June 19, 2003. A Notice of Abandonment was mailed on February 11, 2004.

Petitioner asserts that a proper response was timely filed on October 24, 2003. In support of the petition, Petitioner has submitted, a copy of Applicant's reply and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office on October 24, 2003.

The original correspondence filed was not matched with the application 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 U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file.

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

The application file will be forwarded to the Technology Center's technical support staff for entering the copy of the response submitted with the petition along with the petition for one month extension of time. The fees for the additional claims and the one month extension of time has been charged to applicant's deposit account as requested on the transmittal form. From there, the file will be forwarded to the examiner for further examination in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF PETITIONS

MIKE S. MORELLI
1347 RITTER DR.
GARDNERVILLE, NV 89410

In re Application of
Mike Morelli
Application No.10/114,606
Filed: April 2, 2002
Title of Invention: TRUE PUTT PRACTICE PUTTER

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed July 9, 2003, 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 November 5, 2002. 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 February 6, 2003. A Notice of Abandonment was mailed on June 13, 2003.

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

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.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

This application is being forwarded to Technology Center 3700 for further processing of the Amendment submitted with the instant petition.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Brian C. Kelly
555 S. Center Street
Reno, NV 89501

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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OFFICE OF PETITIONS

In re Application of	:	
Jung-Chun Shih et al	:	
Application No. 10/114,607	:	NOTICE
Filed: April 1, 2002	:	
Attorney Docket No. 388288001US	:	

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 2827.

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

George S. Cole, Esq.
Suite 101
495 Seaport Court
Redwood City, CA 94063

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SEP 2 6 2005

OFFICE OF PETITIONS

In re Application of

David O. McGoveran

Application No. 10/114,609

Filed: April 2, 2002

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the "Notice of Non-compliant Amendment" mailed July 29, 2005, which set a shortened period for reply of one (1) month from its mailing date. Extensions of time set for reply were not available in this instance. No response was received within the allowable period. The application became abandoned on August 30, 2005.

The amendment filed September 1, 2005, is noted.

The request for an extension of time within the first month is noted, but cannot be granted as the request was made outside the maximum period set for reply. Deposit account 50-0705 will be refunded $60.00, in due course.

The application is being forwarded to Technology Center 2100, GAU 2163 for further processing. (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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George S. Cole, Esq.
Suite 101
495 Seaport Court
Redwood City, CA 94063

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MAR 3 0 2007

OFFICE OF PETITIONS

In re Application of

Donald O. McGoveran :

Application No. 10/114,609 : DECISION ON PETITION

Filed: April 2, 2002 :

Attorney Docket No.

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed January 12, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on July 11, 2006. Although the response filed outside the shortened statutory period for reply and an extension of time under 37 CFR 1.136(a) was not obtained within the allowable period, an Advisory Action was mailed September 14, 2006, advising petitioner that the response of July 11, 2006, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on April 13, 2006. A Notice of Abandonment was mailed on February 6, 2007.

The Request for Continued Examination filed March 2, 2007, is noted and made of record

The request for an extension of time within the third month filed March 2, 2007, is noted, but cannot be granted as the request was made outside the maximum statutory period for reply to the final Office action. The amount of $1,080.00 will be refunded, in due course.

The application is being forwarded to Technology Center 2100, GAU 2163 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

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)
6,642,192	2003-11-04	10/114,613	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

	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	/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.

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Commissioner for Patents
United States Patent and Trademark Office
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In re Patent No. 6642192
Issue Date: November 4,2003
Application No. 10114613
Filed: April 1,2002
Attorney Docket No. ACC-002

:
: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.

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FEB - 9 2004

OFFICE OF THE DIRECTOR
TC 3600

HAHN LOESER & PARKS, LLP
TWIN OAKS ESTATE
1225 W. MARKET STREET
AKRON, OH 44313

In re Application of
Andy Tallman, et al.
Application No. 10/114,622
Filed: April 2, 2002
For: DUAL WHEEL LOCKING CHOCK

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on applicant's renewed petition to withdrawal the holding of abandonment filed on October 14, 2003.

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

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on May 27, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

cps/1/28/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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OFFICE OF PETITIONS

AVAGO TECHNOLOGIES LTD
PO BOX 1920
DENVER CO 80201-1920

In re Application of
Devnani, et al. : DECISION ON PETITION
Application No. 10/114,625 :
Filed: April 2, 2002 :
Attorney Docket No. 100110970-1 :

This is a decision on the paper titled "PETITION FOR WITHDRAWAL OF ABANDONMENT UNDER 37 CFR 1.137(a)", filed June 29, 2004, which is being treated as a petition to revive under 37 CFR 1.137(a).

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 pay the issue fee in response to the Notice of Allowance mailed June 17, 2003. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. No issue fee having been received, the above identified application became abandoned on September 18, 2003. A Supplemental Notice of Allowability, correcting the listing of allowed claims, was mailed on September 24, 2003. A Notice of Abandonment was mailed on March 5, 2004.

RELEVANT STATUTES, RULES AND REGULATIONS

35 U.S.C. 151 provides, in pertinent part, that:

> If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.

37 CFR 1.137(a) provides, in pertinent part, that:

> A grantable petition pursuant to this paragraph must be accompanied by:
>
> (1) the reply required to the outstanding Office action or notice, unless previously filed;
>
> (2) the petition fee required by 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)) as required pursuant to 37 CFR 1.137(d).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

Moreover, 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]

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] 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).

OPINION

Petitioner has not met his burden of establishing that the entire period of delay to the filing of the instant petition was unavoidable.

The Notice of Allowance and the Notice of Allowability set forth concurrent but distinct requirements with which applicants were required to comply. However, petitioner states that "the issue fee could not be paid because an error was made in the Notice of Allowance in that the allowed claims were not correctly identified". In actuality, it was the Notice of Allowability, not the Notice of Allowance, which contained an error with respect to the indication of allowed claims. A Supplemental Notice of Allowability was mailed on September 24, 2003, and indicated it was in response to petitioner's phone call on September 10, 2003.

As indicated above, the requirements for payment of the issue fee and new drawings set forth in the Notice of Allowance and Notice of Allowability, respectively, are separate and distinct requirements, and abandonment for failure to comply with such requirements arise under separate statutory provisions. See 35 U.S.C. 151 and 133. As stated in MPEP 711.03(c) at page 700-165:

> 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).

The instant application became abandoned pursuant to 35 U.S.C. 151 for failure to timely pay the issue fee. Petitioner asserts that payment of the issue fee was unavoidable because there was an error with respect to the indication of allowed claims. Petitioner's argument is unpersuasive. Petitioner could have paid the issue fee, and then sought corrected with respect to the claims error in the Notice of Allowability. A reasonably prudent person, in relation to his most important business, would have timely paid the issue fee to avoid certain abandonment under 35 U.S.C. 151, notwithstanding any uncertainty with respect to an error contained in the Notice of Allowability.

CONCLUSION

Thus, it is concluded that petitioner has not demonstrated that the entire period of delay in submitting the issue fee was unavoidable.

Petitioner is recommended to revive the application under 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); 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 specific to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DEC 28 2006

OFFICE OF PETITIONS

In re Application of
Devnani, et al. : DECISION ON PETITION
Application No. 10/114,625 :
Filed: April 2, 2002 :
Attorney Docket No. 100110970-1 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed August 28, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed June 17, 2003. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. No issue fee having been received, the above identified application became abandoned on September 18, 2003. A Supplemental Notice of Allowability, correcting the listing of allowed claims, was mailed on September 24, 2003. A Notice of Abandonment was mailed on March 5, 2004. Applicants filed a petition to revive under 37 CFR 1.137(a) on June 29, 2004. However, the petition was dismissed in a decision mailed on July 31, 2006.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. The required reply in the form of the issue fee was previously paid on October 27, 2003.

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

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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JAN 10 2007

OFFICE OF PETITIONS

In re Application of :
Comfort, Christopher John :
Application No. 10/114,638 : ON PETITION
Filed: April 2, 2002 :
Attorney Docket No. 16727.1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 28, 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 Response to the Restriction Requirement; (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 3700 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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OFFICE OF PETITIONS

In re Application of :

COMFORT, Christopher J. :
Application No. 10/114,638 : DECISION ON PETITION
Filed: April 02, 2002 : TO WITHDRAW
Attorney Docket No. **16727.1** : 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 21, 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 Michael Ballard on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to inventor Christopher Comfort at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CHRISTOPHER COMFORT**
4045 SPENCER STREET
SUITE B48
LAS VEGAS, NV 89119

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SIEMENS CORPORATION
186 WOOD AVENUE SOUTH
ISELIN NJ 08830

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Julianne Noonan et al	:	
Application No. 10/114,642	:	DECISION GRANTING PETITION
Filed: April 2, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2001P22900US01	:	

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 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/RCE; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of November 16, 2005, is accepted as having been unintentionally delayed.

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

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

This matter is being referred to Technology Center AU 2157.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
ALEXANDER J. BURKE
170 WOOD AVE. SOUTH
ISELIN, NJ 08830

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P.O. BOX 272400
FORT COLLINS CO 80527-2400

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OFFICE OF PETITIONS

In re Application of
Winthrop D. Childers et al.
Application No. 10/114,645
Filed: April 1, 2002
Attorney Docket No. 10019416 -1

ON PETITION

This is a decision on the petition filed November 6, 2003 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 October 23, 2003 for failure to timely pay the issue fee on or before October 22, 2003. This decision precedes the mailing of the Notice of Abandonment.

The issue fee having been properly remitted in accordance with 37 CFR 1.18 on November 6, 2003 and all other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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P.O. BOX 2550
SALT LAKE CITY, UT 84110-2550

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OCT 20 2004

OFFICE OF PETITIONS

In re Application of :
James LeVoy Sorenson et al :
Application No. 10/114,670 : NOTICE
Filed: April 2, 2002 :
Attorney Docket No. 3003-5225.1US :

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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1645.

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

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OFFICE OF PETITIONS

SCHNECK & SCHNECK
P.O. BOX 2-E
SAN JOSE CA 95109-0005

In re Application of :
Oyvind Strom :
Application No. 10/114,678 : ON PETITION
Filed: April 1, 2002 :
Attorney Docket No. ATM-198 :

This is a decision on the petition, filed January 4, 2007, 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 above-identified application is expressly abandoned in favor of the filing of a continuing application.

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

Karen Creasy
Petitions Examiner
Office of Petitions

OIPE JC68 AUG 14 2002 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/114,683	04/02/2002	Andrew T. Watt	RTS-0265

CONFIRMATION NO. 9062

Jane Massey Licata
Licata & Tyrrell, P.C.
66 East Main Street
Marlton, NJ 08053

FORMALITIES LETTER

OC000000008294238

Date Mailed: 06/17/2002

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d). Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Bever Hoffman & Harms, LLP
Tri-Valley Office
1432 Concannon Blvd., Bldg. G
Livermore, CA 94550

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APR 18 2007

OFFICE OF PETITIONS

In re Application of:
Sheng-Yuan CHENG
Application No.: 10/114,684
Filed: April 1, 2002
Atty's Docket No.: D&F-022

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed September 21, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed June 12, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on September 13, 2006.

On September 21, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

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

Derek Putonen
Attorney Advisor
(571) 272-3294

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 7

REED SMITH
435 SIXTH AVENUE
PITTSBURGH PA 15219

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JUN 19 2003

OFFICE OF PETITIONS

In re Application of :
Mobed, et al. :
Application No. 10/114,696 : ON PETITION
Filed: April 2, 2002 :
Attorney Docket No. 01-195-US :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 20, 2003.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on April 2, 2002 with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(i). On March 17, 2003, applicant filed a Request to Rescind Previous Nonpublication Request.

With the instant petition, applicant states that the application was foreign filed on March 18, 2003.

As the Request to Rescind Previous Nonpublication Request was filed before the foreign filing, the application will be treated as if the nonpublication request was never made.[1]

The petition fee of $650 has been refunded to Deposit Account No. 18-0582.

As requested, the Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded.

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[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

A Notice Regarding Rescission of Nonpublication Request, setting forth a projected publication date of September 25, 2003, accompanies this decision.

The application file is being forwarded to Technology Center 3600 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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MAY 28 2003
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MAY 28 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 8

Janis E. Clements
1104 Nueces Street
Austin, TX 78701

RECEIVED
JUN 20 2003
Technology Center 2100

In re Application of:
Daniel Paffe
Application No. 10/114,708
Filed: April 2, 2002
For: A SECURE PAPERLESS METHOD AND APPARATUS FOR MANAGING A FORENSIC CHAIN OF CUSTODY

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation January 30, 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 signed Janis E. Clements alone and does not contain a clear indication that Ms. Clements is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED.**

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

James R. Matthews

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

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FEB 3 2004

Gregory L. Bradley
Medrad, Inc.
One Medrad Drive
Indianola, PA 15051

Paper No. 7

In re Application of	:	
Michael A. Spohn et al	:	
Serial No. : 10/114,710	:	RESPONSE TO PETITION
Filed : April 2, 2002	:	UNDER 37 CFR 1.59(b)
For : Encoding and Sensing of Syringe Information	:	

This is a response to the petition under 37 CFR 1.59(b), filed November 13, 2003, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that a document entitled "Post-Claim Construction Declaration of Thomas H. Braunstein (November 19, 2001)" and a document entitled "Second Post-Claim Construction Declaration of Thomas H. Braunstein (December 7, 2001) submitted as part of an Information Disclosure Statement filed November 13, 2003, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/1/30/04

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Paper No. None

GREGORY L BRADLEY
MEDRAD INC
ONE MEDRAD DRIVE
INDIANOLA PA 15051

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MAY 0 3 2005

OFFICE OF PETITIONS

In re Application of
Michael A. Spohn et al.
Application No. 10/114,710
Filed: April 2, 2002
Attorney Docket No.: VI/01-011
Title: ENCODING AND SENSING OF SYRINGE INFORMATION

DECISION ON PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition under 37 CFR §1.137(b)[1], filed February 14, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 22, 2004, 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 June 23, 2004. A Notice of Abandonment was mailed December 15, 2004.

With the petition, Petitioner has submitted the petition fee, a response to the non-final Office action, and the proper statement of unintentional delay.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

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

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(m);

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

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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

MAILED #6

OCT 01 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Ellis, Venable & Busam, LLP
3030 N. Central Avenue, Suite 702
Phoenix, AZ 85012

Paper No. 6

In re application of : **DECISION ON PETITION**
Michael Brunn et al. : **TO MAKE SPECIAL**
Application No. 10/114,726 : **(INFRINGEMENT)**
Filed: April 2, 2002 :
For: LOWLETHALITY PROJECTILE FLIGHT SHAPE :

This is a decision on the petition under 37 C.F.R §1.102(d) to make the above-identified application special that was filed on September 16, 2002.

The petition requests that the above-identified application be made special under the procedure set forth in MPEP 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed September 16, 2002 lacks requirement 2(C), above. In view of this deficiency, the petition is **DISMISSED**.

The applicant, assignee or attorney in addition to stating that a careful search of the prior art has been made, or having good knowledge of the prior art, **must** submit the **most closely** related pieces of prior art. Since "most closely related" is the **best** of the art found, a submission of art is always required, even if the applicant feels that it is not all that related to the invention.

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.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

snm/snm: 9/28/02

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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JOHN L. ROGITZ, ESQ.
ROGITZ & ASSOCIATES
SUITE 3120
750 "B" STREET
SAN DIEGO, CA 92101

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AUG 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Walker, Winston G. :
Application No. 10/114,732 : DECISION GRANTING PETITION
Filed: April 1, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1006.025 :

This is a decision on the petition, filed May 12, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 2, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

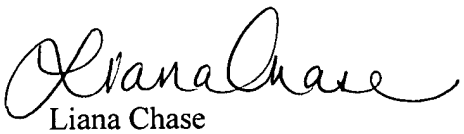
(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a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

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

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 November 4, 2004 accompanies this decision on petition.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to the undersigned at (571) 272-3282.



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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 19 2004

Paper No. 11

In re Application of :
Christopher G. Neiner :
Application No. 10/114,734 : DECISION ON PETITION
Filed: April 2, 2002 :
Attorney Docket No. MCC 01455C2US :

This is a decision on the petition filed on August 24, 2004, by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely reply to the Office action dated December 1, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did in fact file a timely reply to the Office letter in question. Petitioner supports this allegation by submitting a copy of the reply, the reply having a 37 CFR 1.8(a) certificate of transmission affixed thereto and dated March 1, 2004, a date within the period for filing a reply to Office letter in question. Therefore, it is clear that this application is not abandoned. See 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for formal entry of the reply that is attached to the petition. The date to which the reply is entitled is March 1, 2004. Thereafter, the application will be forwarded to the examiner for immediate consideration and appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Storm & Hemingway, L.L.P.
8117 Preston Road
Suite 460
Dallas, TX 75225

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FROM DIRECTORS OFFICE

JUL 26 2004

TECHNOLOGY CENTER 3600

Christensen, O'Connor, Johnson, Kindness, PLLC
1420 Fifth Avenue
Suite 2800
Seattle, WA 98101-2347

In re application of
Dale S. Ackerman Jr.
Application No. 10/114,756
Filed: April 2, 2002
For: WINDOW FLASHING

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on January 20, 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 request lacks condition A) above.

As to condition A), the attorneys associated with Customer No. 26389 do not correspond with those named in the Power of Attorney in the declaration thereby creating confusion as to who is withdrawing. To alleviate this problem, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of all attorneys of record in this application.

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

RAR/vdb: 7/12/04

OIPE JC16
AUG 09 2004
PATENT & TRADEMARK OFFICE

3/4/05
APPROVED 3673 jfw

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	D.S. Ackerman, Jr.	Attorney Docket No.:	CODE118666
Application No:	10/114,756	Group Art Unit:	3673
Filed:	April 2, 2002	Examiner:	M. Safavi
Title:	WINDOW FLASHING		

SUPPLEMENTAL REQUEST FOR PERMISSION TO WITHDRAW AS ATTORNEYS OF RECORD UNDER 37 CFR § 1.36 AND § 10.40

Seattle, Washington 98101

August 4, 2004

TO THE COMMISSIONER FOR PATENTS:

REQUEST FOR WITHDRAWAL AND REASON THEREFOR

Pursuant to 37 C.F.R. § 1.36 and 37 C.F.R. § 10.40(c), the undersigned hereby requests permission to withdraw as attorneys of record in the above-referenced patent application because of dismissal by the client 37 C.F.R. § 10.40(b)(4). The original request, filed on January 16, 2004, was denied by the U.S. Patent and Trademark Office because the notice did not contain a clear indication that the attorney executing the Request was empowered to sign on behalf of the attorneys of record. This indication is added below.

ALLOWANCE OF TIME FOR APPLICANT TO ACT

In accordance with 37 CFR § 10.40(a), the undersigned have taken reasonable steps to avoid foreseeable prejudice to the rights of the applicant. The status of the patent application is as follows: A Notice of Informal Amendment was issued on July 29, 2004 after the applicant's pro se response to the Office Acton dated December 30, 2003. The applicant has sufficient time to seek and employ another practitioner for this patent application before any additional action is required.

APPLICANT NOTIFIED OF WITHDRAWAL

By way of correspondence dated January 16, 2004, applicant was informed of the withdrawal of Christensen O'Connor Johnson Kindness^{PLLC} as attorneys of record for this patent application. Due notice has been given to the applicant of the undersigned's withdrawal from employment and also of the filing of this supplemental paper with the U.S. Patent and Trademark Office.

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101

PAPERS AND PROPERTY DELIVERED TO APPLICANT

During the course of prosecution, the undersigned has provided applicant with all papers and property to which the applicant is entitled concerning the prosecution of the above-identified patent application. The undersigned has also notified the applicant of any responses that may be due and the time frame within which the applicant must respond.

LAST KNOWN MAILING ADDRESS OF APPLICANT

The last known mailing address of the applicant is: c/o Concept Development Inc., 2319 Federal Ave. E., Seattle, WA 98102. Future correspondence should be mailed to applicant at that address.

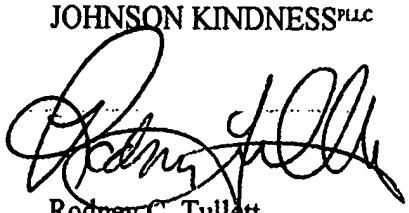
WITHDRAWAL OF ATTORNEYS

This Request for Permission to Withdraw As Attorneys of Record is being signed by Rodney C. Tullett on behalf of himself and all attorneys and agents who are members of, employed by, or otherwise associated with the firm of Christensen O'Connor Johnson Kindness^{PLLC}, Customer No. 26389, and explicitly the attorneys of record named in the power of attorney on file in this matter.

A copy of this Request is being forwarded to applicant at the mailing address set forth above.

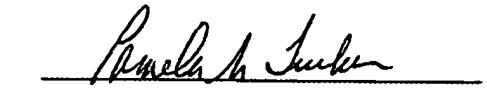
Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}



Rodney C. Tullett
Registration No. 34,034
Direct Dial No. 206.695.1730

I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date: August 4, 2004 

RCT:pt

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

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FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN, ME 04444-0726

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OFFICE OF PETITIONS

In re Application of :
Taiji Hosaka, et al. :
Application No. 10/114,799 : ON PETITION
Filed: April 1, 2002 :
Atty Docket No. 4335 :

This is a decision on the petition, filed November 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 12, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2833 for further processing of the request for continued examination under 37 CFR 1.114 filed November 23, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

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FEB 2 7 2007

OFFICE OF PETITIONS

In re Application of
Jonathan S. Min et al.
Application No. 10/114,800
Filed: April 2, 2002
Attorney Docket No. BP2160.1

ON PETITION

This is a decision on the petition filed February 9, 2006, to withdraw the holding of abandonment , which is treated under 37 CFR 1.181(b), 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 December 22, 2006 as was required by the Notice of Allowance mailed September 22, 2006. This application therefore became abandoned on December 25, 2006. Accordingly, a Notice of Abandonment was mailed January 29, 2007.

The file record discloses that the Notice of Allowance was mailed to the address of record. However, petitioner contends that it 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, wherein receipt of the Notice of Allowance 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 will be charged.

This application is being forwarded to the Technology Center 2616 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
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

JAN 26 2005

MARK B. WILSON
FULBRIGHT & JAWORSKI, LLP
SUITE 2400
600 CONGRESS AVENUE
AUSTIN, TX 78701

In re Application of	:	
Julia-Kristina Fleitmann et al	:	
Serial No.: 10/114,823	:	PETITION DECISION
Filed: April 1, 2002	:	
Attorney Docket No.: SONN:016US	:	

This is in response to the petition under 37 CFR 1.181, filed November 4, 2004, requesting withdrawal of the Final rejection.

BACKGROUND

A review of the file history shows that the examiner mailed an Office action to applicants on December 31, 2003, setting a three month shortened statutory period for reply, which set forth several different rejections , but no rejection under the judicially created obvious double patenting doctrine. Applicants filed a reply, including various amendments to the specification and claims, on April 5, 2004. The examiner mailed a Final Office action to applicants on June 2, 2004, withdrawing some rejections, maintaining other rejections and making some new rejections necessitated by applicants' amendments or presentation of new claims. Included was a new rejection for obvious double patenting over copending application 10/250,953. Applicants conducted a telephone interview with the examiner on September 8, 2004, with regard to a proposed response. No mention is made of the alleged impropriety of the obvious double patenting rejection in the examiner's interview summary. On November 29 and 30, 2004, applicants filed a complete reply to the Final Office action accompanied by a three month extension of time and fee therefore, a Notice of Appeal and a request and petition to withdraw the finality of the Office action in view of the new ground of rejection for obvious double patenting presented in the Final Office action. Subsequent to the filing of the reply the examiner mailed an Advisory Action to applicants denying entry of the amendments as raising new issues, but, in comments appended to the Advisory Action, withdrawing the rejection for obvious double patenting.

DISCUSSION

Applicants argue that the Final Office action was improperly made Final when a new ground of rejection, not necessitated by amendment, was made. The specific ground pointed to is the

rejection for obvious double patenting. Applicants requested withdrawal of the Finality of the Office action which was denied by the examiner. However, the examiner did withdraw the rejection complained of in view of applicants' arguments thereover. Although withdrawal of the Finality of the last Office action would in most cases be proper under these circumstances, the examiner's withdrawal of the new rejection is equally proper. As applicants did not raise any other reason for withdrawal of the finality and the reason raised is now moot, applicants' request is moot.

Applicants should also note that submissions entitled as both a "Request" and "in the alternative, Petition" are confusing as it is not readily apparent who should treat the submission on the merits or how it should be coded in an Image File Wrapper. As noted in 37 CFR 1.181, petitions must be presented as a separate paper.

The petition is **DISMISSED.**

Applicants' Appeal Brief is due within the time period set in 37 CFR 1.192, or as may be extended under 37 CFR 1.136(a).

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

Jasemine C. Chambers
Director, Technology Center 1600

SPE: B. OLSZEWSKI

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/30/06

TO SPE OF : ART UNIT 3714

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/14,837 Patent No.: 6780110

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: _____

JOHN M. HOTALING, II
PRIMARY EXAMINER

SPE

3712
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

Mark W. Roberts, Esq.
DORSEY & WHITNEY LLP
Suite 3400
1420 Fifth Avenue
Seattle, WA 98101

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AUG 25 2006

OFFICE OF PETITIONS

In re Application of

Stephen C. Murphy

Application No. 10/114,859

Filed: April 1, 2002

Attorney Docket No. 500239.02

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed May 26, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

A review of the application file history reveals that a Notice of Allowability was mailed on March 24, 2004, allowing a statutory period for response of three months from its mailing date and requiring corrected drawings to be filed. On April 24, 2004, applicant filed corrected formal drawings. On May 18, 2004, an Office communication was mailed indicating that the formal drawings filed April 29, 2004, were received and approved. The May 18, 2004, communication did not require any further action on applicant's part and did not set a period for reply. Notwithstanding, on November 30, 2004, a Notice of Abandonment was sent indicating that the application had become abandoned for failure to respond to the communication of May 18, 2004.

From the review of the application file and of the instant petition, it is evident that the abandonment of the application was not proper as the formal drawings were timely filed and approved by the draftsman and the May 18, 2004, communication did not require a response and did not set a period for reply. The instant petition is granted and the holding of abandonment is withdrawn.

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

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON MA 02109

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JUL 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Jacobs et al. :
Application No. 10/114,893 : ON PETITION
Filed: April 2, 2002 :
Attorney Docket No. 00766.000075.11 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2003, to revive the above-identified application.

The petition is **dismissed.**

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

On March 7, 2003, applicants filed a "Declaration of Express Abandonment under 37 CFR 1.138," stating that applicants expressly abandon the above-identified application. On March 21, 2003, the Office mailed applicants a Notice of Abandonment, stating that the application was abandoned in view of the letter of express abandonment, which was signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

On October 10, 2003, applicants filed the present petition under 37 CFR 1.137(b) to revive the application. In the present petition, applicants state that the entire delay in filing this petition from the date of abandonment until the filing of this petition was unintentional. Applicants explain that this

application was one of many applications for which ownership was transferred from the former owners (Genetics Institute) to the current owners (Ono Pharmaceutical). Applicants further explain that during the midst of the transfers, the express abandonment was filed under the direction of the former owners (Genetics Institute), an action which was inconsistent with the rights and authority of the current owners (Ono Pharmaceutical). Therefore, applicants claim that the express abandonment was filed by mistake and without the intent of the current owners (Ono Pharmaceutical).

It is unclear from applicants' petition as to whether Genetics Institute or Ono Pharmaceutical was the owner of the application at the time the express abandonment was filed. This information is essential in determining the petitions on its merits. Accordingly, the petition is **dismissed** without prejudice.

Applicants must file a renewed petition under 37 CFR 1.137(b) and explain which company owned and prosecuted the application at the time the express abandonment was filed. No additional petition fee will be due upon filing the renewed petition.

Further correspondence with respect to this matter should be addressed as follows and **directed to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

All telephone inquiries regarding this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON MA 02109

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SEP 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Jacobs et al. :
Application No. 10/114,893 : ON PETITION
Filed: April 2, 2002 :
Attorney Docket No. 00766.000075.11 :

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

On March 7, 2003, applicants filed a "Declaration of Express Abandonment under 37 CFR 1.138," stating that applicants expressly abandon the above-identified application. On March 21, 2003, the Office mailed applicants a Notice of Abandonment, stating that the application was abandoned in view of the letter of express abandonment, which was signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

On October 10, 2003, applicants filed a petition under 37 CFR 1.137(b) to revive the application, which was dismissed by the decision of July 9, 2004. In the decision, the Office requested that applicants explain whether Genetics Institute (former owners) or Ono Pharmaceutical (current owners) was the owner of the application at the time the express abandonment was filed.

On August 13, 2004, applicants filed the present renewed petition. Applicants stated that Ono Pharmaceutical was the owner of the application at the time the express abandonment was filed. Applicants further explained that Genetic Institute (former owners) directed the filing of the express abandonment; however, Genetic Institute did not have the authority to direct

such. Moreover, applicants states that Ono Pharmaceutical, at no point in time, ever wished that the application become abandoned.

After further review of the present renewed petition and the evidence submitted by applicants, the petition is **granted**. The application will be restored to pending status.

The application will be forwarded to Technology Center 1600.

All telephone inquiries regarding this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

DORSEY & WHITNEY LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 91444-4187

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MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of
Chui et al.
Application No. 10/114,908
Filed: April 1, 2002
Attorney Docket No. A-70398-1/RMS//RMK

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 25, 2003, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely and proper manner to the Notice to File Missing Parts of Application (Notice) mailed May 7, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. A reply was filed on November 4, 2002, with payment for a three month extention of time. However, a four month extention of time was due on this date and $520 (four month fee of $1,440 - $920 already paid) will be charged to petitioner's deposit account. The above-identifed application because abandoned on November 8, 2002.

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

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

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

FEB 15 2007

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

JONES DAY
555 SOUTH FLOWER STREET FIFTIETH FLOOR
LOS ANGELES, CA 90071

In re Application of :
John A. Robinson et al. :
Serial No.: 10/114,918 : PETITION DECISION
Filed: April 1, 2002 :
Attorney Docket No.: 54096.8002.US00 :

This is in response to the petition under 37 CFR 1.144, filed March 3, 2006, requesting withdrawal of an improper restriction requirement. The delay in acting upon this petition is regretted.

BACKGROUND

The examiner mailed to applicants on January 27, 2004, a restriction requirement, wherein the claims were divided into twelve groups. If any one of Groups I, II, V, VI, VIII-XII were elected, applicants were also required to elect a distinct species of peptidomimetics having different repeats NPNA, DPNA, NPNV or DPNV.

Applicants replied on March 1, 2004, electing Group I (claims 1, 2 and 10) wherein the species is NPNA. Applicants stated that the election was made with traverse, however, applicants failed to set forth any arguments or basis for the traversal.

The examiner mailed a new Office action on May 25, 2004, acknowledging the election of Group I, species NPNA and the traversal. The examiner maintained the restriction requirement and made it FINAL on the basis that applicants did not specifically point out the reasons supporting the statement of traversal. Applicants' election was taken to be **without traverse**.

On March 3, 2006, applicants filed a Notice of Appeal along with this petition, asking review and withdrawal of the restriction requirement.

An Appeal Brief was filed on October 10, 2006.

DISCUSSION

As set forth by the first sentence of 37 CFR 1.143, the traverse to a requirement must be complete as required by 37 CFR 1.111(b) which reads in part: "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 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...." Under this rule, the applicant is required to specifically point out the reasons on which he or she bases his or her conclusions that a requirement to restrict is in error. A mere broad allegation that the requirement is in error does not comply with the requirement of 37 CFR § 1.111. Thus the required provisional election (see MPEP § 818.03(b)) becomes an election without traverse.

As set forth by 37 CFR 1.144, after a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. 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. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

Applicants' *pro forma* traversal of the restriction requirement, which presents no argument for traversal, was correctly pointed out by the examiner to be an election **without traverse** in the next Office action. Applicants failed to correct the examiner's determination and failed to offer any proper traversal of the requirement in rebuttal thereto until the filing of this petition. Applicants' failure to offer a proper traverse now denies them the right to petition the restriction requirement. Because applicants' election was made **without traverse**, the right to petition has been lost.

DECISION

The petition is **DISMISSED** for the reasons set forth above.

The application will be forwarded to the examiner to consider the Appeal Brief filed 10 October 2006.

Should there be any questions about this decision, please contact Quality Assurance Specialist/Program Manager Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600
jb/pl

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.
10/114,927	04/03/2002	Allan M. Green	TEI-001	9158

959 7590 09/21/2004

LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON, MA 02109

EXAMINER	
JONES, DAMERON LEVEST	
ART UNIT	PAPER NUMBER
1616	

DATE MAILED: 09/21/2004

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandrai, VA. 22313-1450
WWW.USPTO.GOV

Paper No.

Jane E. Remillard
LAHIVE & COCKFIELD
28 State Street
Boston, MA 02109

Date: August 24, 2004
Application No. 10/114,927
Filed: April 3, 2002
Subject: METHOD FOR USING ANNEXIN FOR DETECTING CELL DEATH IN VIVI AND TREATING ASSOCIATED CONDITIONS

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petitions filed June 9, 2004, under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the Inventorship, and accordingly, this application has been changed by the **ADDITION of NEIL STEINMETZ**. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

THURMAN K. PAGE, M.A., J.D.
SUPERVISORY PATENT EXAMINER

THURMAN K. PAGE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1615
Remsen 4A81

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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FEB 24 2006

OFFICE OF PETITIONS

In re Application of :
Robert J. Royer, et al. :
Application No. 10/114,930 : ON PETITION
Filed: April 1, 2002 :
Attorney Docket No. 42P12941 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 22. 2005 and supplements thereto filed January 10, 2006 and January 12, 2006, to revive the above-identified application.

A review of the record discloses that the application became abandoned for failure to timely pay the issue fee on or before October 26, 2005. It is noted that a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on October 31, 2005. However, the RCE was improper since it was not filed prior to October 26, 2005, the date upon which the issue fee was due. 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. On November 22, 2005, the present petition, an IDS and RCE were filed. On January 12, 2006, the requisite issue fee was submitted.

The petition, as supplemented, is found to comply with the requirements under 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination) filed November 22, 2005. The fees submitted with the improper RCE and the IDS filed October 31, 2005 are being refunded to counsel's deposit account.

Petitioner is advised that the issue fee paid in the above-identified application cannot be refunded. However, if the above-identified application is again allowed, petitioner may request that the issue fee paid on January 12, 2006, be applied towards the issue fee required by the new Notice of Allowance.

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

The application file is being forwarded to Technology Center AU 2189 for further processing of the request for continued examination under 37 CFR 1.114 filed November 22, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Ronald A. Sandler, Esq.
Jones, Day, Reavis & Pogue
77 West Wacker Drive
Chicago, IL 60601-1692

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MAR 2 0 2003

OFFICE OF PETITIONS

In re Application of :
James R. Birch, et al. :
Application No. 10/114,965 : ON PETITION
Filed: April 1, 2002 :
Attorney Docket No. 087522-452389 :

This is in response to the petition under 37 CFR 1.47(a), filed December 9, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventors, Ralph Hohneke; Steven J. Kleis; and Melissa Perez, have refused to join in the filing of the above-identified application.

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

As provided in 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition, which is the same as what is given on the declaration. 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.

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

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MAR 2 0 2003

OFFICE OF PETITIONS

Ms. Melissa Perez
2814 Allen Street
Muscatine, IA 52761

In re Application of
James R. Birch; Ralph Hohneke; Steven J. Kleis; Leonard C. Sloat; Melissa Perez; and Brad R. Hansen
Application No. 10/114,965
Filed: April 1, 2002
For: METHOD AND APPARATUS FOR PUNCHING PARTICLE BOARD

Dear Ms. Melissa Perez:

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

cc: Ronald A. Sandler, Esq.
Jones, Day, Reavis and Pogue
77 West Wacker Drive
Chicago, IL 60601-1692

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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MAR 2 0 2003

OFFICE OF PETITIONS

Mr. Steven J. Kleis
4290 S.W. Ascot Circle
Allentown, PA 18103

In re Application of
James R. Birch; Ralph Hohneke; Steven J. Kleis; Leonard C. Sloat; Melissa Perez; and Brad R. Hansen
Application No. 10/114,965
Filed: April 1, 2002
For: METHOD AND APPARATUS FOR PUNCHING PARTICLE BOARD

Dear Mr. Steven J. Kleis:

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

cc: Ronald A. Sandler, Esq.
Jones, Day, Reavis and Pogue
77 West Wacker Drive
Chicago, IL 60601-1692

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 2 0 2003

OFFICE OF PETITIONS

Mr. Ralph Hohneke
114 Laurel Street
Muscatine, IA 52761

In re Application of
James R. Birch; Ralph Hohneke; Steven J. Kleis; Leonard C. Sloat; Melissa Perez; and Brad R. Hansen
Application No. 10/114,965
Filed: April 1, 2002
For: METHOD AND APPARATUS FOR PUNCHING PARTICLE BOARD

Dear Mr. Ralph Hohneke:

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: Ronald A. Sandler, Esq.
Jones, Day, Reavis and Pogue
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Chicago, IL 60601-1692

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ALEXANDRIA, VA 22313-1450
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MAR 23 2004

Paper No. 6

In re Application of
Chien-I Wu
Application No. 10/115,035
Filed: April 4, 2002
Attorney Docket No. WU-76

: DECISION ON PETITION

This is a decision on the petition filed on March 12, 2004 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated August 1, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that the application is not abandoned because a timely and proper reply to the Office letter in question was in fact filed. In support of this allegation, petitioners have furnished a copy of the reply and a copy of a post card receipt acknowledging that the reply was received in the Office on November 3, 2003, a Monday. This evidence shows that a timely reply was filed within the three month reply period set by the August 1, 2003 (see 37 USC § 21(b) and 37 CFR 1.7(a)) and establishes that this application is not abandoned for failure to file a proper and timely reply to the Office letter in question.

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 August 1, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Browdy and Neimark, P.L.L.C.
624 Ninth Street, NW
Suite 300
Washington, DC 20001-5303

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Zilka-Kotab, PC
P.O. Box 721120
San Jose CA 95172-1120

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OFFICE OF PETITIONS

In re Application of :
Gartside et al. :
Application No. 10/115,039 : DECISION ON PETITION
Filed: April 4, 2002 :
Attorney Docket No. 01.311.01 :

This is a decision on the petition, filed May 26, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the decision by the Board of Patent Appeals and Interferences rendered on February 9, 2009 and because the period for seeking court review of the decision has expired. The Notice of Abandonment was mailed April 24, 2009.

Petitioner indicates that the period for taking subsequent action in connection with the decision by the Board of Patent Appeals and Interferences was not expired such that the Request for Continued Examination filed May 26, 2009 was timely. A search of the file reveals that the decision mailed February 9, 2009 was returned to the USPTO Mail Center as undeliverable and was re-mailed March 23, 2009.

37 CFR 1.197(b) indicates that proceedings in this instance are terminated at the time of failure to file an appeal to the court or commence a civil action. The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit or for commencing a civil action, according to 37 CFR 1.304(a)(1), is two months from the date of the decision of the Board of Patent Appeals and Interferences. The Federal Circuit has indicated that the date of the decision of the Board of Patent Appeals and Interferences is the date on which the opinion is released to the public (or at least the parties), such as the date the decision was mailed. *See In re McNeil-PPC*, Inc., 91 USPQ2d 1576, 1579 (Fed. Cir. 2009).

Thus, the above-noted application could not have been abandoned prior to two months after the March 23, 2009 mail date of the decision. Also, since May 23, 2009 fell on a Saturday and May 25, 2009 was a Federal Holiday, action may have been taken in response to the decision until

May 26, 2009 pursuant to 37 CFR 1.7(a). Accordingly, the Request for Continued Examination filed May 26, 2009 was timely.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center Art Unit 2192 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Charles I. Brodsky
2 Bucks Lane
Marlboro, NJ 07746

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of :
Elizabeth M. Pillari :
Application No. 10/115,068 :
Filed: April 4, 2002 :
Title of Invention: :
BREAST AND BOTTLE FEEDING :
INFANT HEAD SUPPORT :

This is a decision on the Petition under 37 CFR § 1.137(a), filed March 10, 2006, to revive an unavoidably abandoned application. The petition is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

The Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed April 19, 2004. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a).

Applicant filed an appealed to the Board of Patent Appeals and Interferences ("Board"), which affirmed the Examiner in a Decision mailed September 18, 2005. Proceedings in the application were terminated, and because the period for seeking court review of the Board's decision has expired, and because no claims were allowed, the application stood abandoned. A Notice of Abandonment was mailed on January 9, 2006.

Petitioner files the instant petition and avers non-receipt of a copy of the Board's Decision.

A review of the file

A review of the file reveals that the final Office action stated that claims 17-20 were allowed.

The MPEP 1214.06 II provides that, where claims stand allowed,

> [t]he appellant is not required to file a reply. The examiner issues the application [] on the claims which stand allowed. For paper files, a red-ink line should be drawn through the refused claims and the notion 'Board Decision' written in the margin in red ink.
>
> If the Board affirms a rejection of claim 1, claim 2 was objected to prior to appeal as being allowable except for its dependency from claim 1 and independent claim 3 is allowed, the examiner should cancel claims 1 and 2 and issue the application [] with claim 3 only.
> If the Board affirms a rejection against independent claim 1, reverses all rejections against dependent claim 2 and claim 3 is allowed, after expiration of the period for further appeal, the examiner should either:
> (A) Convert dependent claim 2 into independent form by examiner's amendment, cancel claim 1 in which the rejection was affirmed, and issue the application with claims 2 and 3; or
> (B) Set a 1-month time limit in which appellant may rewrite dependent claim 2 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 claims 1 and 2 and issue the application with allowed claim 3 only. (Emphasis supplied).

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

The file is being referred to Technology Center Art Unit 3624 for continued processing in due course.

Petitioner may request a refund of the petition fee by writing to the Refund Section of the Finance Division addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

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

Derek L. Woods
Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
BOSTON, MA 02110

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JUL 17 2006

OFFICE OF PETITIONS

In re Application of:	:	
Nilsson et al.	:	
Application No. 10/115,072	:	DECISION ON
Filed: April 4, 2002	:	PETITION
Atty Docket Number: 7339	:	

This is a decision in response to the Petition under 37 CFR 1.137(b), filed January 31, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office Communication mailed January 4, 2005. The Office Communication set a one (1) month period for reply, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned February 5, 2005. A Notice of Abandonment was mailed December 21, 2005.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). A proper response to the Restriction/Election requirement is filed with the instant petition. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 1647 for processing of the Response to the Restriction/Election requirement.

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

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WARREN M. CHEEK, JR.
WNDEROTH, LIND & PONACK , L.L.P.
2033 K STREET N.W.
SUITE 800
WASHINGTON DC 20006

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JUN 0 1 2007

OFFICE OF PETITIONS

In re Application of :
Edwin Southern :
Application No. 10/115,077 : ON PETITION
Filed: 4 April, 2002 :
Atty. Docket No. 7649.0001-07 :

This is a decision on the petition filed under 37 CFR 1.182 on 27 March, 2007, requesting that a terminal disclaimer be withdrawn.

The petition is **dismissed**.

Petitioner requests that a terminal disclaimer filed on 26 November, 2004, over U.S. Patent No. 6,054,270, be withdrawn. Specifically, petitioner asserts that the terminal disclaimer is no longer necessary.

The examiner has determined that the terminal disclaimer applies to at least one claim of record. Specifically, the terminal disclaimer applies to claims 43-48 for the reasons set forth in the Office Action dated 25 June 2005, pages 4-6. Applicant argues that the claims 22 and 28 have been amended to require that "the terminal nucleotide of each oligonucleotide is covalently attached to the surface of the support". This is not persuasive because, as was outlined in the rejection of 6/25/2004, WO 85/01051 makes obvious the attachment of oligonucleotides to solid supports, as is referenced in 6,054,270 for methods of attachment of oligonucleotides (at column 7).

As such, the petition is dismissed.

As the petition has been considered the petition fee of $400 is due and will not be refunded. It is noted that $130.00 has been paid, and the balance due of $270.00 will be assessed to counsel's deposit account.

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

The application is being referred to Technology Center Art Unit 1631 for further processing.

Telephone inquires should be directed to the undersigned at 571.272.3231.

D Wood

Douglas Wood
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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WARREN M. CHEEK, JR.
WNDEROTH, LIND & PONACK , L.L.P.
2033 K STREET N.W.
SUITE 800
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of	:	
Edwin Southern	:	
Application No. 10/115,077	:	ON PETITION
Filed: 4 April, 2002	:	
Atty. Docket No. 7649.0001-07	:	

This is a decision on the renewed petition filed under 37 CFR 1.182 on 6 September, 2007, requesting that a terminal disclaimer be withdrawn.

The petition is **granted**.

Petitioner again asserts that a terminal disclaimer filed on 26 November, 2004, over U.S. Patent No. 6,054,270, should be withdrawn. Specifically, petitioner asserts that the terminal disclaimer is no longer necessary.

The examiner has determined that the terminal disclaimer does not apply to any claim currently of record: The claims have been significantly amended and therefore the Terminal Disclaimer no longer applies to any of the claims in the instant case. Specifically, independent method claims 53 and 83, depending from claims 28 and 76, respectively, now include limitations for covalent linkage of the terminal nucleotide of each oligonucleotide. Further, limitations are now recited specific to the size of known locations on the array and the size of the array itself, which are no longer obvious over US patent 6,054,270.

As such, the petition may be favorably considered.

The duplicate petition fee filed with the present renewed petition is unnecessary and will be credited to counsel's deposit account as authorized in the present petition.

This application is being referred to Technology Center Art Unit 1631 for correction of PALM and file records consistent with this decision.

Telephone inquiries relative to this decision should 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
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ATTN: CEHEC-OC
7701 TELEGRAPH ROAD
ALEXANDRIA, VA 22315-3860

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OFFICE OF PETITIONS

In re Application of :
Sheahan, et al. :
Application No. 10/115,088 : ON PETITION
Filed: April 4, 2002 :
Attorney Docket No. COE-549 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 1, 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 2, 2004. Accordingly, this application became abandoned on September 3, 2004. A Notice of Abandonment was mailed on December 15, 2004.

The file is being forwarded to Technology Center 1700.

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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United States Patent and Trademark Office
P.O. Box 1450
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TOWNSEND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER 8TH FLOOR
SAN FRANCISCO, CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
Bing-Yan Zhu, et. al.	:	
Application No. 10/115,135	:	DECISION ON PETITION
Filed: April 1, 2002	:	TO WITHDRAW
Attorney Docket No. 070545-1176	:	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 15, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to TOWNSEND TOWNSEND AND CREW LLP has been revoked by the assignee of the patent application on June 19, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

IPW
2836

NEIFELD IP LAW, P.C.
2001 Jefferson Davis Highway
Suite 1001
Arlington, VA 22202

Tel: 703-415-0012
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Email: rneifeld@Neifeld.com
Web: www.Neifeld.com

OIPE JC136
AUG 17 2004
PATENT & TRADEMARK OFFICE

TRANSMITTAL LETTER AND AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

ASSISTANT COMMISSIONER FOR PATENTS
Alexandria, VA 22313

RE: Attorney Docket No.: X2YA0021U-US
Application Serial No.: 10/115,159
Filed: April 2, 2002
Title: Offset Pathway Arrangement for Energy Conditioning
Inventor: ANTHONY et al.
Group Art Unit: Unknown
Examiner: Unknown

SIR:

Attached hereto for filing are the following papers:

1. Decision on Petition Under 37 CFR 1.183 Seeking Waiver of Requirements Under 37 CFR 1.98 and 1.52 (Filed in Application Serial No: 10/237,079, Neifeld Docket No: X2YA0010U-US; 5 Pages)

Our check in the amount of $0.00 is attached covering the required fees.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-2106. A duplicate copy of this sheet is enclosed.

31518
PATENT TRADEMARK OFFICE

8/17/04
Date

Richard A. Neifeld, Ph.D.
Registration No. 35,299
Attorney of Record

Printed: August 16, 2004 (3:40pm)
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OIPE JC139
AUG 17 2004
PATENT & TRADEMARK OFFICE

NEIFELD IP LAW, PC
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

Attorney Review of Decision: 8-2004
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AUG 10 2004
OFFICE OF PETITIONS

In re Application of
Anthony, A. et al.
Application No. 10/237,079
Filed: September 9, 2002
For: UNIVERSIAL ENERGY CONDITIONING INTERPOSER WITH CIRCUIT ARCHITECTURE
Attorney Docket No. X2YA0010U/US

: DECISION ON PETITION
: UNDER 37 CFR 1.183
: SEEKING WAIVER OF
: REQUIREMENTS UNDER
: 37 CFR 1.98 and 1.52

This is a response to a petition under 37 CFR 1.183 filed on April 22, 2004, concurrently with an Information Disclosure Statement (IDS). The § 1.183 petition requests waiver of the rules for Information Disclosure Statements under 37 CFR 1.98. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing a paper copy of each reference in each of 26 related applications where the references are being cited by Petitioner. The request for waiver is made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.183 petition also contains a request seeking permission to submit the same prior art submissions on compact disc which would require a waiver of 37 CFR 1.52(a) and (e).

The petition under 37 CFR 1.183 requesting relief to file a reduced number of paper copies of IDS references and to file them on compact disc is **GRANTED IN PART** to the extent set forth below.

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 26 U.S. applications relating to different aspects of an invention.

DecPet_X2YA0010U_US_040813 RS

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information material to patentability, which includes information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.183 - Special Treatment of Compact Disc

The petition states that the compact disc filed with the IDS is an additional copy of the paper references included with the IDS. It is not apparent from the petition why the Office needs to make available to every examiner in all 26 applications a second copy of each reference on compact disc. Accepting a second copy on compact disc of each reference places an additional burden on the Office. First, there is the burden to determine if the paper copy and the compact disc copy of the references are the same. If the two copies are not the same it raises questions about what the examiner considered in each application. Second, accepting the compact disc copy places a burden on the Office to maintain a copy as part of the Official record of the application. Finally, there is insufficient information in the petition evaluate the data formats and software requirements to determine how compatible the filing is with the Office's automated systems and procedures for maintaining records. Hence it is not clear why relief is required under § 1.183 if relief from filing a paper copy in each application is granted. Nor is it apparent on balance why the Office should accept the additional burden of having to process a second copy of the references on compact disc. In view of the relief granted below, no further discussion of the compact discs is required in this decision.

Petition under § 1.183 for a waiver of the rules for compact discs is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-121 and 600-122.

Paper copies: Petitioner notes that the instant application is one of about 24 bulk filing applications that have been filed in regard to a particular technology. Accordingly, Petitioner requests that one individual paper copy of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application.

Rather than be required to submit, via a paper copy, two cartons of foreign patent and non-patent literature references in each of 24 applications, Petitioner seeks to have:

(1) The concurrently filed single paper copy of each IDS citation fulfill the requirement for a paper copy in all 24 applications;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of the references to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from requiring a separately filed paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, and a copy of the Form 1449 (or equivalent).

Once past the initial IDS submission, the petition does not propose the waiver to apply to updates and no waiver is granted for updates of the IDS.

A review of Office records indicates that 23 applications are either Image File Wrapper (IFW) applications or will soon be IFW applications. The one application that is not an IFW application will become an IFW application upon filing an RCE which appears to be required for consideration of the IDS. The Office has provided an image copy of all of the IDS references from the holding application to the other 23 bulk IFW applications.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of foreign patent and non-patent literature references in 24 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available in different applications from one paper copy, on balance, there is seen to be sufficient benefit to justify waiver in this instance for all the applications filed.

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

The § 1.98(a)(2) requirement for (the submission of) a copy of each foreign patent and non-patent literature IDS citation in a bulk filing application will be waived in the bulk filing applications provided that the following 7 conditions are complied with:

1) One paper copy of each foreign patent and non-patent literature IDS citation has been submitted to the Office in the concurrently filed IDS in this, the holding application;

2) The information cited in each of the bulk filing applications is or has also been cited in the holding application;

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

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

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

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

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) There will be no waiver of any aspects of 37 CFR 1.97 in any application after allowance or final rejection of that application.

Part IV. Further Correspondence

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

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

By FAX: (703) 872-9306
Attn: Office Patent Legal Administration/Michael L. Lewis

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Petitioner's list of Applications

NEIFELD DOCKET NO: X2YA0010U/US

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATIONS OF: Anthony

Examiner: JACKSON, S.

APPLICATION NO: 10/237,079

GAU: 2836

Filed: 9/9/2002

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APR 22 2004
OPLA

Title: Universal Energy Conditioning Interposer with Circuit Architecture

and relating to the following 24 applications:

National AppNo	Neif Dock Ref	Status	Title
09/647,648	X2YA0105UPCT-US	Allowed	Component Carrier
10/479,506	X2YA0025UPCT-US	pending	Arrangement for Energy
10/766,000	X2YA0013U-US	pending	Shielded Energy Conditioner
09/996,355	X2YA0125U-US	Pending	Energy pathway arrangement
10/023,467	X2YA0126U-US	Pending	Energy pathway arrangements
10/115,159	X2YA0021U-US	Pending	Offset pathway arrangements
10/189,338	X2YA0022U-US	Pending	Pathway arrangement
10/189,339	X2YA0023U-US	Pending	Arrangement for energy
10/237,079	X2YA0010U/US	Pending	Universal energy conditioning
10/328,942	X2YA0108U-US-C1	Pending	Paired Multi-Layered Dielectric
10/344,749	X2YA0119UPCT-US	Pending	An Electrode Arrangement for
10/399,590	X2YA0015UPCT-US	Pending	Amalgam of shielding and
10/399,630	X2YA0014UPCT-US	Pending	Energy Pathway Arrangements
10/432,840	X2YA0016UPCT-US	Pending	Energy Pathway Arrangements
10/433,482	X2YA0017UPCT-US	Pending	Energy Pathway Arrangements
10/435,199	X2YA0020U-US	Pending	Energy Conditioning Structure
10/443,764	X2YA0026U-US-C1	Pending	Paired Multi-Layered Dielectric
10/443,778	X2YA0029U-US-C2	Pending	Energy Conditioning Circuit
10/443,788	X2YA0028U-US-C2	Pending	Component Carrier
10/443,792	X2YA0027U-US-C1	Pending	Multi-Functional Energy
10/460,361	X2YA0032UUSC1	Pending	Predetermined symmetrically
10/705,962	X2YA0041U-US	Pending	COMPONENT CARRIER
09/632,048	X2YA0117U-US	Allowed	Universal Energy Conditioning
10/369,335	X2YA0100U-US-C4	Allowed	Polymer Fuse & Filter

TO: ASSISTANT COMMISSIONER FOR PATENTS

ALEXANDRIA, VA 22313

37 CFR 1.183 PETITION TO WAIVE PORTION OF THE IDS RULES

FILE A REDUCED SET OF REFERENCES

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/20/09

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/115,159 Patent No.: 6,894,884

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

RoChaun Johnson
Certificates of Correction Branch
703-308-9390 ext. 119

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: FOR COCIN OF 6-30-05, 8-11-06, 1-9-08 WHICH REQUEST TO CHANGE PRIORITY CLAIM FROM 09/845,680 TO 09/815,246 AT ITEM (63) AND IN THE 1ST PARAGRAPH OF THE SPECIFICATION M Jackson 2-23-09

2/23/09

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
SPE

2836
Art Unit

PAGE 1/1 * RCVD AT 2/23/2009 9:43:05 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/29 * DNIS:2709754 * CSID:703 305 3594 * DURATION (mm-ss):00-48

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

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NOV 27 2007

OFFICE OF PETITIONS

In re Application of
Barry J. Menich
Application No. 10/115,200
Filed: April 2, 2002
Attorney Docket No.: **CML00087A**

ON PETITION

This is a decision on the petition filed November 14, 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 June 29, 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 September 30, 2006. Accordingly, a Notice of Abandonment was mailed January 25, 2007.

This matter is being referred to Technology Center 2626 for appropriate action on the amendment filed November 14, 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)).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

Lisa A. Haile, J.D., Ph.D.
GRAY CARY WARE & FREIDENRICH LLP
Suite 1100
4365 Executive Drive
San Diego, CA 92121-2133

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AUG 2 8 2002

OFFICE OF PETITIONS

In re Application of:
Ed Nolan and Robin Filshie
Application No. 10/115,230
Filed: April 20, 2002
Title of Invention: HIGH EFFICIENCY TRANSFECTION BASED ON LOW ELECTRIC FIELD STRENGTH, LONG PULSE LENGTH

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to a Petition Under 37 C.F.R. 1.47(a), filed May 1, 2002 (Certificate of Mailing dated January 26, 2000), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. The delay in treating this petition is regretted.

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, Robin Filshie, refuses to sign the declaration in the above-identified application. assignment documents.

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

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robin Filshie
406 Rushton Road
Toronto, Ontario M6C 2x9
CANADA

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AUG 2 8 2002

OFFICE OF PETITIONS

In re Application of:
Ed Nolan and Robin Filshie
Application No. 10/115,230
Filed: April 20, 2002
Title of Invention: HIGH EFFICIENCY TRANSFECTION BASED ON LOW ELECTRIC FIELD STRENGTH, LONG PULSE LENGTH

LETTER

Dear Mr. Filshie:

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
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Lisa A. Haile, J.D., Ph.D.
GRAY CARY WARE & FREIDENRICH LLP
Suite 1100
4365 Executive Drive
San Diego, CA 92121-2133

LMS JFC

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ARMSTRONG KRATZ QUINTOS
HANSON & BROOKS LLP
SUITE 1000
1725 K STREET, N.W.
WASHINGTON, D.C. 20006

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MAR 0 3 2004
OFFICE OF PETITIONS

In re Application of
Hiroshi Sato et al
Application No. 10/115,259
Filed: April 4, 2002
Attorney Docket No. 020445

ON PETITION

This is a decision on the petition, filed February 27, 2004, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 30, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to 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 3654 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).

DOCKETED Sec F
DATE 3/5/04

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

April 22, 2003

David R. Padnes
Gibbons, DelDeo, Dolan, Griffinger
& Vecchione
1 Riverfront Plaza
Newark, NJ 07102-5497

In re application of:
Petillo et al DECISION ON PETITION
Serial No.: 10/115,269
Filed: April 2, 2002
For: METHOD AND YSTEM FOR GENERATING
HYDROGEN BY DISPENSING SOLID AND LIQUID
FUEL COMPONENTS

This is a decision on the petition received on February 26, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed May 1, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned July 2, 2002.

On February 26, 2003, the office received a communication from attorney of record. Enclosed was an acknowledgment that the attorney never received the Notice to File Missing Parts mailed May 1, 2002.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts mailed May 1, 2002.

The petition is hereby GRANTED.

A New Notice to File Missing Parts is enclosed with this Decision setting forth a new response period of two months from the date of the notice.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

Brian M. Long
Long and Cameron
1401 – 1166 Alberni Street
Vancouver, B.C.
Canada V6E 3Z3

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Meho Karalic :
Application No. 10/115,281 : ON PETITION
Filed: April 4, 2002 :
Attorney Docket No. 247P4US :

This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 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.

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).

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 October 2, 2003. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, a request for continued examination (RCE) under 37 CFR 1.114, or the filing of a

continuing application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), an RCE under 37 CFR 1.114, or the filing of a continuing application. A copy of the Examiner's Advisory Action is enclosed herewith.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Since the $475 extension of time fee submitted the present petition was subsequent to the six-month statutory period for reply, this fee is unnecessary. Petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany such a request.

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 **(703) 872-9306.**

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

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

Enclosure: Copy of Examiner's Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

Brian M. Long
Long and Cameron
1401 – 1166 Alberni Street
Vancouver, B.C.
Canada V6E 3Z3

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of
Meho Karalic
Application No. 10/115,281
Filed: April 4, 2002
Attorney Docket No. 247P4US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 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.

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).

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 October 2, 2003. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, a request for continued examination (RCE) under 37 CFR 1.114, or the filing of a

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continuing application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), an RCE under 37 CFR 1.114, or the filing of a continuing application. A copy of the Examiner's Advisory Action is enclosed herewith.

NB

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Since the $475 extension of time fee submitted the present petition was subsequent to the six-month statutory period for reply, this fee is unnecessary. Petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany such a request.

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 (703) 872-9306.

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

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

Enclosure: Copy of Examiner's Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

Brian M. Long
Long and Cameron
1401 – 1166 Alberni Street
Vancouver, B.C. V6E 3Z3
CANADA

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JUN 15 2005

OFFICE OF PETITIONS

In re Application of :
Meho Karalic :
Application No. 10/115,281 : ON PETITION
Filed: April 4, 2002 :
Attorney Docket No. 247P4US :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 31, 2005, to revive the above-identified application.

The petition is **GRANTED**.

In response to the decision on petition mailed March 31, 2005, the instant petition and a proposed reply, namely, a Request for Continued Examination (RCE) under 37 CFR 1.114, were filed. Receipt of the RCE is acknowledged.

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

The application file is being forwarded to Technology Center 3600 for processing the RCE.

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

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United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 16

KENYON & KENYON
1500 K STREET, N.W., SUITE 700
WASHINGTON DC 20005

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JUL 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Naomi Matsumoto et al :
Application No. 10/115,287 : DECISION ON PETITION
Filed: April 4, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10089/15 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 28, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/JP02/01585, filed February 22, 2002 set forth in the amendment filed October 24, 2003.

The petition is **GRANTED**.

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

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

The instant pending application was filed on April 4, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

---

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed PCT application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and (365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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 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 application, accompanies this decision on petition.

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

The examiner of Technology Center Art Unit 1773 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/JP02/01585, filed February 22, 2002.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

MICHELLE S. TEMPLE
TEMPLE PATENT LAW OFFICE
57 HACKLEBORO ROAD
CANTERBURY, NH 03224

In re Application of
Williams, et al.,
Application No. 10/115,291
Filed: April 3, 2002
Attorney Docket No. 100001-1-0030

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 27, 2003.

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 Michelle S. Temple on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

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 December 27, 2005 that requires a reply from 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: Billy D. Williams
3 Mast Road
Apt. 2
Lee NH 03824

cc: NINA L. FENTON
21 BRYANT ROAD
MANCHESTER, NH 03109

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

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APR 14 2009

OFFICE OF PETITIONS

In re Application of Bjorklund et al. :
Application No. 10/115,302 : Decision on Petition
Filing Date: April 3, 2002 :
Attorney Docket No. P0009461.00 :

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

The petition is **granted**.

The office mailed a non-final Office action including a requirement for restriction/election on November 28, 2007.

A reply and payment for a one-month extension of time were filed January 28, 2008. The reply elected an invention but failed to elect a species and identify which claims read on the elected species.

The Office mailed a Notice on April 14, 2008, informing petitioner the January 28, 2008 reply was not fully responsive. The Notice set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later) for petitioner to supply the omitted information.

The Office did not receive a reply to the April 14, 2008. Therefore, the application became abandoned on May 15, 2008.

A Notice of Abandonment was mailed December 2, 2008.

The instant petition requests revival of the application.

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,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

As to item (1), petitioner has supplied a corrected response to the restriction requirement.

As to item (2), petitioner has supplied the petition fee of $1,620.

As to item (3), 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." To the extent any statement of delay in the petition varies from this exact language, the statement will be construed as the equivalent of the statement above. If the entire delay from the date of abandonment, until the date the petition was filed, was not unintentional, petitioner must notify the Office.

The petition is signed by Attorney Kevin Raasch. Attorney Raasch does not appear to have been an attorney of record at the time the application became abandoned. Therefore, it appears Attorney Raasch may not have been in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Attorney Raasch that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

As to item (4), a terminal disclaimer is not required.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office notes Attorney Raasch does not appear to currently be an attorney of record. In addition, the address on the petition differs from the address of record. If Attorney Raasch desires to receive future correspondence regarding this application, an appropriate power of attorney must be submitted. While a courtesy copy of this decision is being mailed to Attorney Raasch, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Petitioner has submitted $2,350 for payment for a five-month extension of time. However, payment for an extension of time is not necessary when reviving an application. Therefore, the Office has credited the $2,350 back to Deposit Account No. 13-4895.

Technology Center Art Unit 3731 will be informed of the instant decision and the application, including the response to the restriction requirement filed with the petition, will be further examined in due course.

---

[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Kevin Raasch
Mueting, Raasch & Gebhardt, P.A.
PO Box 581336
Minneapolis, MN 55458-1336

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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OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH ST
SUITE 3300
MINNEAPOLIS MN 55402-1609

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of
Getreuer, et al. :
Application No. 10/115,304 : DECISION ON
Filed: April 3, 2002 : PETITION
Attorney Docket No. 18504/339 :

This is in response to the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed July 13, 2005.

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

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on October 22, 2004. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on January 23, 2005. A Notice of Abandonment was mailed on February 28, 2005.

With the instant petition, petitioner paid the petition fee together with the issue fee, and made the proper statement of unintentional delay.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

1-10-06

Patent No. :7117194
Ser. No. : 10/115322
Inventor(s) :David Constantino
Issued : 10/3/06
Title : TEXTUAL AND GRAPHIC DATA PRESENTATION SYSTEM AND METHOD
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

McDonnell Boehnen Hulbert & Berghoff LLP
300 Wacker Drive
Chicago, IL 60606

HR

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P.O. Box 1450
Alexandria, VA 22313-1450
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EDWARD K. RUNYAN
MCDONNELL BOEHNEN HULBERT & BERGHOFF
32ND FLOOR
300 S. WACKER DRIVE
CHICAGO IL 60606

COPY MAILED

JUN 26 2008

OFFICE OF PETITIONS

In re Patent No. 7117194	:	
Issue Date: 10/03/2006	:	
Application No. 10/115322	:	ON PETITION
Filed: 04/03/2002	:	
Attorney Docket No. 01-689-C	:	

This is a decision on the petition filed on April 22, 2008, under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Snap-on Incorporated."

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from Snap-on Technologies, Inc. to Snap-on Incorporated was recorded on December 21, 2006, **after the date**

of issuance of this patent. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Telephone inquiries concerning this decision on petition should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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CHARLES K. RENFRO
146 VOLUNTEER DR.
ELIZABETHTON, TN 37643

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DEC 14 2005

OFFICE OF PETITIONS

In re Application of :
Charles K. Renfro :
Application No. 10/115,330 : ON PETITION
Filed: April 2, 2002 :
Attorney Docket No. None :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed October 25, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before September 12, 2005. A Notice of Abandonment was mailed on October 25, 2005. Receipt is acknowledged of the issue fee of $700 and the publication fee of $300 on October 24, 2005.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Donald W. Spurrell appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Spurrell desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The application is being forwarded to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DONALD W. SPURRELL
128 E. MARKET ST.
JOHNSON CITY, TN 37604

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

Paper No. 18

RODEY, DICKASON, SLOAN, AKIN & ROBB, PA
P.O. BOX 1888
ALBUQUERQUE, NM 87103

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SEP 13 2004

Director's Office
Office of Patent Publication

In re Application of
Leonard John Otten III, et al. :
Application No. 10/115,355 : **DECISION ON PETITION**
Filed: April 2, 2002 :
Attorney Docket No. 11732-41599 :

This is a decision on the Petition To Withdraw Holding Of Abandonment Office Letter Not Received, received in the United States Patent and Trademark Office (USPTO) via facsimile transmission on June 7, 2004. See MPEP 711.03(c)II

The petition is **GRANTED**.

The application was abandoned for failure to timely file a proper reply to the Office letter—Notice Regarding Drawings—mailed February 3, 2004.

Petitioner states that "The Office letter indicated as allegedly mailed on February 3, 2004, was not received."

Inspection of the application reveals that the Notice Regarding Drawings was first mailed on October 10, 2003 to the wrong address. It was re-mailed to the above-identified address on February 3, 2004.

In absence of any irregularity in the mailing of the Notice Regarding Drawings, there is a strong presumption that the Office action was properly mailed on February 3, 2004 to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the practitioner did not receive the Office action, and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record must be attached to and referenced in practitioner's statement.

Petitioner has met the above-stated conditions. Accordingly, the holding of abandonment is hereby withdrawn.

The Notice Regarding Drawings with the Notice Of Draftsperson's Patent Drawing Review, Form PTO-948 is attached herewith. The PTO-948 notes the objections to the drawing, received on April 2, 2003, and the required corrections. The applicant has been given a two-month time period to correct the informalities.

Thomas Hawkins

Thomas Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

Attachments: Notice Regarding Drawings
Notice Of Draftsperson's Patent Drawing Review, Form PTO-948

RECEIVED
AUG 2001 8/15/01
Inc
LYNNE M CHRISTENBURY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 27

LYNNE M CHRISTENBURY
E I DUPONT DE NEMOURS AND COMPANY
LEGAL PATENTS
1007 MARKET STREET
WILMINGTON DE 19898

AUG 14 2001

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LSC NOTED
PATENT AND TRADEMARK OFFICE
TECHNOLOGY CENTER

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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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

SIEMENS CORPORATION
ATTN: ELSA KELLER LEGAL ADMINISTRATIOR
INTELLLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN NJ 08830

COPY MAILED
JUN 0 1 2004
OFFICE OF PETITIONS

In re reissue Application of :
Mitchell, et al. :
Application No. 10/115,373 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. 5320US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 17, 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 May 12, 2003. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on August 13, 2003. A Notice of Abandonment was mailed on December 15, 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 1755 for consideration of the amendment filed May 17, 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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ALEXANDRIA, VA 22313-1450
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APR 16 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills NY 11746

In re Application of :
Arkady Nikitin, et al. :
Application No. 10/115,375 : DECISION ON PETITION
Filed: April 3, 2002 : TO MAKE SPECIAL
For: **METHOD OF MEASURING A LINE EDGE ROUGHNESS OF MICRO OBJECTS IN SCANNING MICROSCOPES** :

This is a decision on the petition to make special pursuant to 37 C.F.R. §1.102 and MPEP §708.02 (IV) (applicant's age), filed April 2, 2005.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement executed by Ilya Zborovsky on behalf of Arkady Nikitin, stating that the inventor is over 65 years of age. Ilya Zborovsky is not the applicant and no other evidence, as indicated in MPEP §708.02, IV above, was provided to support the petition.

Accordingly, the petition is **DENIED**.

Petitioner is given **TWO MONTHS** from the date of the decision to supplement the petition with the appropriate evidence. However, it is noted that the application has been allowed and is awaiting issuance.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 10 2005

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

MAR 10 2005

OFFICE OF THE DIRECTOR
TC 3600

WELSH & KATZ, LLP
120 S Riverside Plaza
22nd Floor
Chicago, IL 60606

In re application of
Joseph Sameh
Application No. 10/115,393
Filed: April 3, 2002

For: WEBSITE MESSAGING SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION & INFRINGEMENT)

This is in response to the petition filed on February 2, 2005 to make the above-identified application special on the basis of infringement as set forth in MPEP § 708.02 II and accelerated examination as set forth in MPEP § 708.02 VIII.

In the instant case applicant has petitioned under two separate categories (infringement and accelerated examination); however, applicant has paid only one fee. To have both categories considered applicant must pay for both categories or revise the petition to be directed to only one category (i.e., infringement or accelerated examination).

For the above stated reason, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

SNM/jwk: 3/7/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY - 5 2005

WELSH & KATZ, LLP
120 S. Riverside Plaza
22nd Floor
Chicago, IL 60606

In re application of Joseph Sameh Application No. 10/115,393 Filed: April 03, 2002 For: WEBSITE MESSAGING SYSTEM	: : : : :	**DECISION ON RENEWED PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on March 21, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

The original petition filed on February 02, 2005 was dismissed on March 10, 2005 for failing to satisfy the fee requirements set forth in 37 CFR 1.17(h). The renewed petition satisfies the above deficiencies.

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

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

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

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

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

KJD/pav: 03/31/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY - 5 2005

WELSH & KATZ, LLP
120 S. Riverside Plaza
22nd Floor
Chicago, IL 60606

In re application of	:	**DECISION ON RENEWED**
Joseph Sameh	:	**PETITION TO MAKE**
Application No. 10/115,393	:	**SPECIAL**
Filed: April 03, 2002	:	**(INFRINGEMENT)**
For: WEBSITE MESSAGING SYSTEM		

This is a decision on the renewed petition under 37 C.F.R § 1.102(d) filed March 21, 2005 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 21, 2005 lacks requirement (B) above. In this regard, a rigid comparison of the alleged infringing device, product or method with the claims of the application has not been made, and the statement that "some of the claims are unquestionably infringed" is lacking. In view of this deficiency, the petition is **DISMISSED.**

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.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/pav: 03/31/05

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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OCT 11 2005

WELSH & KATZ, LLP
120 S. Riverside Plaza
22nd Floor
Chicago, IL 60606

In re application of	:	**DECISION ON RENEWED**
Joseph Sameh	:	**PETITION TO MAKE**
Application No. 10/115,393	:	**SPECIAL**
Filed: April 03, 2002	:	**(INFRINGEMENT)**
For: WEBSITE MESSAGING SYSTEM		

This is a decision on the renewed petition under 37 C.F.R § 1.102(d) filed May 19, 2005 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 original petition of March 21, 2005 was dismissed on May 05, 2005 for failing to satisfy condition (B) above. The renewed petition satisfies the deficiency. However, a renewed petition to make special (Accelerated Examination) was filed on March 21, 2005 and was GRANTED on May 05, 2005. Once special status is conferred there is no need for any subsequent petition requests.

All of the requirements for special status under MPEP § 708.02 have already been met as per the Notice to that effect mailed on May 05, 2005.

The Petition request is **dismissed as moot**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/pav: 09/30/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 17 2004

REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH LOOR
NEW YORK, NY 10022-7650

In re Application of	:	
Burbank et al	:	DECISION ON PETITION TO
Serial No. 10/115,422	:	WITHDRAW FROM ISSUE
Filed: April 4, 2002	:	37 C.F.R. 1.313(a)
Title: Doppler Directed Suturing and	:	
Compression Device and Method	:	

This is in response to applicants' Petition filed May 28, 2004, to withdraw above-identified application from issue under 37 CFR C.F.R. 1.313(a).

The application is being withdrawn to permit reopening of prosecution due to unpatentability of one or more claims.

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

The application is being forwarded to the Examiner for action.

John E. Kittle
Director
Technology Center 3700/2900

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P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 15 2004

REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH LOOR
NEW YORK, NY 10022-7650

In re Application of	:	
Burbank et al	:	DECISION ON PETITION TO
Serial No. 10/115,422	:	WITHDRAW FROM ISSUE
Filed: April 4, 2002	:	37 C.F.R. 1.313(a)
Title: Doppler Directed Suturing and	:	
Compression Device and Method	:	

This is in response to applicants' Petition filed May 28, 2004, to withdraw above-identified application from issue under 37 CFR C.F.R. 1.313(a).

The application is being withdrawn to permit reopening of prosecution due to unpatentability of one or more claims.

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

The application is being forwarded to the Examiner for action.

John E. Kittle
Director
Technology Center 3700/2900

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P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 17 2004

EDWARD J. LYNCH
DUANE MORRIS LLP
ONE MARKET, SPEAR TOWER, STE. 2000
SAN FRANCISCO CA 94105

In re Application of	:	
Fred H. Burbank et al	:	NOTICE OF WITHDRAWAL
Serial No. 10/115,422	:	FROM ISSUE
Filed: April 4, 2002	:	UNDER 37 CFR 1.313(b)
For: Doppler Directed Suturing and	:	
Compression Device and Method	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed to John E. Kittle at (703) 308-0873.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

John E. Kittle
Director
Technology Center 3700/2900

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COMMISSIONER FOR PATENTS
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Paper No. 14

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

COPY MAILED

DEC 0 3 2003

OFFICE OF PETITIONS

In re Application of :
Masaki Kataoka, et al. :
Application No. 10/115,439 : ON PETITION
Filed: April 4, 2002 :
Attorney Docket No. 046601-5106 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 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 17, 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 April 18, 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, the $950 extension of time submitted with the petition on October 10, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account number 05-0310 as authorized.

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.

The application file is being forwarded to Technology Center 3700, Art Unit 3729 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
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JJGJR.: 12-04

Paper No: __

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OFFICE OF PETITIONS

VENABLE
POST OFFICE BOX 34385
WASHINGTON DC 20043-9998

In re Application of
Wu, et al.
Application No. 10/115,440
Filing Date: 4 April, 2002
Attorney Docket No. 2240-179934

This is a decision on the petition filed on 26 February, 2004, and in light of the allegations is considered under 37 C.F.R. §1.182.[1]

The Office regrets the delay in addressing this matter.

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.182 is **DISMISSED**.

BACKGROUND

Petitioner alleges that he filed an application on behalf of the Applicants on 4 April, 2002, and on or about 15 January, 2004, a pair of charges were made to Petitioner's Deposit Account (22-0261) in the amounts of $15,138.00 and $280.00 for, respectively:

---

[1] The regulations at 37 C.F.R. §1.182 provide:

§ 1.182 Questions not specifically provided for.

All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in §1.17(h). [47 Fed. Reg. 41278, Sept. 17, 1982, effective date Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

- 841 claims in excess of 20 (at $18.00/claim), and
- a multiple dependent claim surcharge.

Petitioner alleges that "this enormous charge to the Deposit Account was contrary to Applicants (sic) intention or desire, and in view of its enormity was not warranted in the absence of what could have been a simple and courteous warning inquiry or forewarning to the undersigned, e.g., by telephone, that such a large fee was about to be charged to the Account, that would have led to an immediate response and reduction in the number of claims as originally intended by Applicants * * *."[2]

Petitioner continues, setting out an explanation that it was his "intention to file a preliminary amendment with the payment of fees on September 30, 2002, which was to remove all multiple dependencies . . . ."

The record reveals that Petitioner filed no preliminary amendment with the application at the time of the initial filing (4 April, 2002) or with the payment of fees (30 September, 2002). Rather, Petitioner filed no preliminary amendment until the instant petition was filed on 26 February, 2004.

ANALYSIS

A review of the file indicates that the instant application was deposited on 4 April, 2002, and at that time was styled as a "CIP" (Continuation in Part), claiming priority to Nonprovisional Application No. 09/501,097 (filed 9 February, 2000) and to Provisional Application No. 60/281,003 (filed on 4 April, 2001). On filing, the application set forth 18 numbered claims in 8 pages, however, contained numerous multiple dependent claims (e.g., Claims 17).

At the time the instant matter was filed, Congress directed and 35 U.S.C. §41 provided that:

* * *

(a) The Director shall charge the following fees:
(1)(A) On filing each application for an original patent * * *.

---

[2] Petition, at pp. 1 - 2.

> (B) In addition, on filing or on presentation at any other time, $78 for each claim in independent form which is in excess of 3, $18 for each claim (whether independent or dependent) which is in excess of 20, and $260 for each application containing a multiple dependent claim. (Emphasis supplied.)
>
> * * *

The Congressional statutory statement of the timing and structure of fees is a mandate, not a suggestion.[3]

Similarly the regulations at 37 C.F.R. §1.22 provided, inter alia:

> **§ 1.22 Fees payable in advance.**
> (a) Patent fees and charges payable to the United States Patent and Trademark Office are required to be paid in advance; that is, at the time of requesting any action by the Office for which a fee or charge is payable with the exception that under § 1.53 applications for patent may be assigned a filing date without payment of the basic filing fee.
>
> * * *

Notably, the discussion of the charge of fees is set forth in the commentary at MPEP §601.01 states:

> * * *
>
> When filing a nonprovisional application, a basic fee entitles applicant to present 20 claims including not more than 3 claims in independent form. If claims in excess of the above are included at the time of filing, an additional fee is required for each independent claim in excess of three, and a fee is required for each claim in excess of 20 claims (whether independent or dependent). Fees for a proper multiple dependent claim are calculated based on the number of claims to which the multiple dependent claim refers, 37 C.F.R. §1.75(c), and a separate fee is required in each application containing a proper multiple dependent claim. For an improper multiple dependent claim, the fee charged is that charged for a single dependent claim. (Emphasis supplied.)
>
> * * *

Petitioner, as one registered to practice before the office, is not unfamiliar with the statutory provisions, the regulations and the commentary cited above.

---

[3] "Shall" is the language of command. *Escoe v. Zerbst*, 295 U.S. 490, 55 S.Ct. 818, 79 L.Ed. 1566 (1935); *Boyden v. Commissioner of Patents*, 441 F. 2d 1041 (Ct. App. DC Cir. 1971).

As for Petitioner's inquiry as to why the Office did not call him to inquire about the matter,[4] after the initial filing on 4 April, 2002, Petitioner expressly authorized the Office on 30 September, 2002, "to charge any fees which may be required * * * to Deposit Account Number 22-0261."

CONCLUSION

Petitioner has failed to carry his burden of proof herein.

Therefore, the petition under 37 C.F.R. §1.182 is **dismissed**.

The application is released to OIPE to for processing consistent with this decision before being forwarded for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

[4] The Office has in excess of 300,000 new applications and many times that in responsive filings each year, and biotechnology applications with large numbers of claims (sometimes erroneously calculated by the Applicant) are not unusual.

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Paper No. 11

Randy J. Pritzker
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

NOV 4 2004

In re Application of:
Michael P. Ellenbogen
Serial No.: 10/115,443
Filed: April 03, 2002
Attorney Docket No.: **P00736/70015 JNA**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed April 26, 2004, under 37 CFR § 1.181, to withdraw the holding of abandonment in the above-identified application, and the status letter filed July 26, 2004. No petition fee is required.

The petition is **GRANTED**.

The application was held abandoned for the failure to timely file a response to the Office action mailed on September 10, 2003. A Notice of Abandonment was mailed on April 20, 2004.

Petitioner asserts that on December 10, 2003, a response was timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of the response bearing a certificate under 37 CFR § 1.8(a), signed and dated December 10, 2003, and a copy of a return postcard, which acknowledges receipt in the USPTO of the response on December 12, 2003.

A review of the application file reveals the above noted response was not matched with the application file wrapper at the time of mailing of the Notice of Abandonment. The above-identified response filed December 10, 2003, has since been located and matched with the file wrapper.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

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

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

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)
6,680,767	2004-01-20	10/115,447	2002-04-03	722-X02-026

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	/Paul D. Bianco/	Date (YYYY-MM-DD)	2008-03-14
Name	Paul D. Bianco	Registration Number	43500

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6680767
Issue Date: January 20,2004
Application No. 10115447
Filed: April 3,2002
Attorney Docket No. 722-X02-026

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

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

The petition is GRANTED.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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APR 12 2007

OFFICE OF PETITIONS

In re Application of :

S. John Barcay :
Application No. 10/115,459 : DECISION ON PETITION
Filed: April 2, 2002 : TO WITHDRAW
Attorney Docket No. 163.1324USD2 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 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 Sarah M. Monfeldt, former attorney with the firm of Merchant & Gould, PC.

Sarah M. Monfeldt has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Applicant is advised that an Issue Notification was mailed on February 28, 2007.

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

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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Gary L. Loser
Varian Semiconductor Equipment Associates, Inc.
35 Dory Road
Gloucester, MA 01930

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JAN 17 2006

OFFICE OF PETITIONS

In re Application of:	:	
Reyes et al.	:	
Application No. 10/115,466	:	DECISION DISMISSING
Filed: April 3, 2002	:	PETITION UNDER
Attorney Docket Number:	:	
V00077.70227.US	:	

This is in response to the Petition Under 37 CFR § 1.47(a), filed November 4, 2002, 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)"; 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 April 3, 2002, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application, on April 30, 2002, requiring *inter alia*, a properly signed oath or declaration.

Applicant filed the instant petition in response to the Notice and provided that, despite diligent efforts, inventor Prillaman cannot be found or reached. In support of this assertion, Applicant filed the Declaration of Cheryl Purcell wherein Ms. Purcell states that a copy of the application was mailed to Mr.

Prilliman at his last known address on two separate occasions without any response from inventor Prillaman. Further efforts by Ms. Purcell to locate inventor Prillaman consisted of a telephone call placed to the last known telephone number for inventor Prilliman, the result of which was that no one answered the phone.

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. Applicant lacks item (1) set forth above.

As to item (1), applicant is advised that, where an inventor is unavailable (cannot be reached), while it is not required that the application be mailed, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted from a person with first hand knowledge of the facts relied upon that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor. *See*, MPEP § 409.03(d).

Here, Applicant's provide that they twice mailed the application to the last known address of the nonsigning inventor, and telephoned the inventor's last known phone number, and conclude that diligent efforts have been made.

At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions. *See*, MPEP § 409.03(d).

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Gary L. Loser
Varian Semiconductor Equipment Associates, Inc.
35 Dory Road
Gloucester, MA 01930

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AUG 28 2006

OFFICE OF PETITIONS

In re Application of:	:	
Reyes et al.	:	
Application No. 10/115,466	:	DECISION NOTING
Filed: April 3, 2002	:	JOINDER OF INVENTOR
Attorney Docket Number:	:	
V00077.70227.US	:	

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed March 20, 2006 (Certificate of Mailing dated March 16, 2006), noting the joinder of the inventor.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the Reconsideration of Petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Declaration has been entered and made of record.

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

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

Derek L. Woods
Attorney
Office of Petitions

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GENE SCOTT; PATENT LAW & VENTURE GROUP
3140 RED HILL AVENUE
SUITE 150
COSTA MESA CA 92626-3440

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JUN 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Clint Lawrence :
Application No. 10/115,500 : ON PETITION
Filed: April 2, 2002 :
Attorney Docket No. Lawren.C-01 :

This is a decision on the petition, filed June 14, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the final Office Action mailed July 26, 2004. No extensions of time having been requested and no timely response filed, this application became abandoned October 27, 2004. Accordingly, a Notice of Abandonment was mailed February 23, 2005.

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

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

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

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

for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

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

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of July 26, 2004, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment still does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on July 26, 2004, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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JUN 14 2006

OFFICE OF PETITIONS

In re Application of :
Yuji Nomura, et al. :
Application No. 10/115,511 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No.: FUJY 19.595 :

This is a decision on the petition, filed June 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 19, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2616 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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APR 26 2005

Marshall, Gerstein & Borun LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, IL 60606

In re Application of
Evaldas Latvys
Serial No. : 10/115,514
Filed : April 3, 2002
For : Platform Centering Device

: DECISION ON PETITION
: TO WITHDRAW
: HOLDING OF
: ABANDONMENT
:

This is a decision on petitioner's request filed December 6, 2004, to review the holding of abandonment of the instant application for failure to respond to the Office action mailed September 8, 2003. No Notice of Abandonment has been issued in the instant application, but the application is deemed to have become abandoned after the expiration of the shortened statutory period set in the Office action as no action was received by the Office. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped receipt dated December 11, 2003. The response included a certificate of mailing dated December 8, 2003.

In view of the above, it is deemed that the response was timely filed and to hold the application abandoned would be in error and is hereby withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response received December 11, 2003.

Summary: Holding of Abandonment Withdrawn.

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

ak/04/21/05

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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

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SEP 22 2005

OFFICE OF PETITIONS

In re Application of :
Latvys : DECISION
Application No. 10/115,514 :
Filed: April 3, 2002 :
Atty. Dkt. No.: 29444/37855 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 1.154(b)" filed August 2, 2005. This matter is being treated as an application for patent term adjustment under 37 CFR 1.705(b).

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **GRANTED TO THE EXTENT INDICATED HEREIN**."

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due is 453 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicant argues that the proper adjustment under 37 CFR 1.703(a)(2) is 402 days.

A review of the application history reveals that in accordance with 37 CFR 1.702(a)(1), an adjustment of 56 days can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. The adjustment began June 4, 2003, the day after the date that is fourteen months after the date that the application was filed, and ended July 29, 2003, the date the restriction requirement was mailed.

In accordance with 37 CFR 1.702(a)(2), a further adjustment of 400 days can be attributed to the Office. The adjustment began April 12, 2004, the day after the date that is four months after the date that a response to the non-final Office action was received, as evidenced by the copy of the date stamped return

postcard submitted as evidence on December 16, 2004, and ended May 16, 2005, the date the second non-final Office action was mailed.

It is noted that applicant argues that the period of adjustment under 37 CFR 1.702(a)(2) and 1.703(a)(2) commenced April 9, 2004, four months after the certificate of mailing date contained on response to the non-final Office action. Applicant is advised that the date of receipt, rather than the date indicated on the certificate of mailing, controls in determining the period of adjustment under 37 CFR 1.703.

The adjustment of 453 days is reduced three days in accordance with 37 CFR 1.704(b) for applicant's failure to engage in reasonable efforts to conclude prosecution (or processing). The reduction began December 9, 2003, the day after the date that is three months after the date that the non-final Office action was mailed, and ended December 11, 2003, the date a response to the non-final Office action was received.

Accordingly, the period of patent term adjustment as of the date of mailing of the Notice of Allowance is 453 days.

The Office hereby acknowledges receipt of the required application fee of $200.00.

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

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

Enclosure: Copy of Adjustment PAIR Calculation

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

In re Patent No. 6,974,123 :
Issue Date: December 13, 2005 :
Application No. 10/115,514 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. 29444/37855 :

This is a decision on the petition under 37 CFR 1.378(c), filed March 30, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 14, 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.

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

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Paper No. 9

MARSHALL, GERSTEIN & BORUN, LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606

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MAY 1 1 2004

OFFICE OF PETITIONS

In re Application of :
Beavo et al. :
Application No. 10/115,515 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. 29342/34583B :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 6, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed October 2, 2003, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the above-identified application became abandoned on November 3, 2003.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $2010.00 extension of time fee submitted with the petition on April 6, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 1600 for further examination on the merits.

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

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

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Paper No. 6

Acushnet Company
PO Box 965
Fairhaven, MA 02719-0965

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OFFICE OF PETITIONS

In re Application of :
J. Dalton et al. :
Application No. 10/115,540 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. B01-84 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 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 Notice to File Corrected Application Papers mailed May 8, 2002, which set a period for reply of (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the above-identified application became abandoned on August 9, 2002.

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

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

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

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

cc: Troy R. Lester
Acushnet Company
333 Bridge Street
Fairhaven, MA 02719

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KATTEN MUCHIN ROSENMAN LLP
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NEW YORK NY 10022-2585

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OFFICE OF PETITIONS

In re Application of	:	
Miyashita et al.	:	DECISION ON
Application No. 10/115,542	:	APPLICATION FOR
Filed: April 3, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. FUJR 19.598	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705," filed February 28, 2008. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eight hundred seventy-seven (877) days to eight hundred eighty (880) 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 eight hundred eighty **(880)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 30, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 877 days. On February 28, 2008, applicants timely submitted the instant application for patent term adjustment[1]. Applicants contend that an additional period of adjustment for Office delay of 3 days should be entered for

[1] PALM records indicate that the Issue Fee payment was also received on February 28, 2008.

the Office delay in mailing a Notice of Allowance on November 30, 2007 in response to the amendment filed July 27, 2007.

A review of the application history reveals that the Notice of Allowance mailed August 15, 2007 was returned as undeliverable due to Office error in mailing. Under the circumstances, the period of Office delay, pursuant to 1.702(a)(2), is properly calculated using the date of mailing of the Notice of Allowance mailed November 30, 2007. As such, a period of adjustment of 3 days is being entered.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance mailed November 30, 2007 is eight hundred eighty (880) 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 Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Updated PAIR Screen

PTA Calculations for Application: 10/115542			
Application Filing Date:	04/03/2002	PTO Delay (PTO):	968
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	91
Post-Issue Petitions:	0	Total PTA (days):	880
PTO Delay Adjustment:	3		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
45	05/10/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	3		
39	11/30/2007	MAIL CORRECTED NOTICE OF ALLOWANCE			
38	11/29/2007	CORRECTED NOTICE OF ALLOWANCE			
37	09/13/2007	FINISHED INITIAL DATA CAPTURE			
36	08/21/2007	EXPORT TO INITIAL DATA CAPTURE			
35	08/15/2007	MAIL NOTICE OF ALLOWANCE			
34	08/13/2007	ISSUE REVISION COMPLETED			
33	08/13/2007	DOCUMENT VERIFICATION			
32	08/13/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
31	08/13/2007	NOTICE OF ALLOWABILITY			
30	07/30/2007	DATE FORWARDED TO EXAMINER			
29	07/27/2007	AMENDMENT AFTER FINAL REJECTION		9	26
28	07/27/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	04/18/2007	MAIL FINAL REJECTION (PTOL - 326)			
25	04/16/2007	FINAL REJECTION			
24	02/01/2007	DATE FORWARDED TO EXAMINER			
23	01/16/2007	RESPONSE AFTER NON-FINAL ACTION		27	21
22	01/16/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	09/20/2006	MAIL NON-FINAL REJECTION			
20	09/18/2006	NON-FINAL REJECTION			
19	06/20/2006	MISCELLANEOUS INCOMING LETTER			
18	06/29/2006	DATE FORWARDED TO EXAMINER			
17	06/20/2006	RESPONSE AFTER NON-FINAL ACTION		55	13
		REQUEST FOR EXTENSION OF TIME - GRANTED			

16	06/20/2006				
14	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	01/26/2006	MAIL NON-FINAL REJECTION	968		-1
12	01/23/2006	NON-FINAL REJECTION			
11	04/03/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
10	01/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
9	11/04/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8.7	04/03/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	04/03/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	04/03/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
6	06/17/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	05/20/2002	APPLICATION DISPATCHED FROM OIPE			
4	05/13/2002	APPLICATION IS NOW COMPLETE			
3	04/16/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	04/16/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/03/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

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OFFICE OF PETITIONS

In re Application of :
warren David Eaton et al :
Application No. 10/115,556 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. 57424US002 :

This is a decision on the petition, filed November 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 November 5, 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 3652 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No. 8

PERKINS COIE
P.O. BOX 2168
MENLO PARK, CA 94025

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JUN 17 2003

OFFICE OF PETITIONS

In re Application of :
Theresa M. Allen et al :
Application No. 10/115,566 : ON PETITION
Filed: April 2, 2002 :
Attorney Docket No. 55325-8148.US05 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 3, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 1, 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 2, 2002.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

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

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

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Klarquist Sparkman Campbell
Leigh & Winston
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204

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MAR 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Philip A. Swain, et al. :
Application No. 10/115,580 : ON PETITION
Filed: April 1, 2002 :
Attorney Docket No. 5673-62654-01 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of a continuing application filed February 23, 2005.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Since the $1020 extension of time fee submitted with the present petition was subsequent to the six-month statutory period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being referred to the Files Repository.

Marianne E. Jenkins

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/115,607	04/03/2002	Braden M. Robison	S*EN 251	2233

7590 02/07/2006

FLYNN, THIEL, BOUTELL & TANIS, P.C.
2026 Rambling Road
Kalamazoo, MI 49008-1699

EXAMINER	
DAVIS, DANIEL J	

ART UNIT	PAPER NUMBER
3731	

DATE MAILED: 02/07/2006

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

In re Patent No. 6,824,552	:	
Issue Date: November 30, 2004	:	**DECISION GRANTING**
Appl No.: 10/115,607	:	**PETITION**
Filed: April 03, 2002	:	*37 CFR 1.324*
For: SURGICAL CUTTING ACCESSORY WITH NICKEL TITANIUM ALLOY CUTTING HEAD	:	

This is a decision on the petition filed April 28, 2005 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.

Corrine M. McDermott
Supervisory Patent Examiner
Art Unit 3738
Technology Center 3700

FLYNN, THIEL, BOUTELL & TANIS, P.C.
2026 Rambling Road
Kalamazoo, MI 49008-1699

SPE Nguyen Anh Tuan

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/115,602

Paper No.: _____

DATE : 5/18/05

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction on Patent No.: 6824552

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Lamonte Newsome

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

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

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

Comments:

Certificate is included w/ applicant's request of 4/28/05.

Corinne McDermott — **SPE**

3738 — **Art Unit**

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)
6722043	2004-04-20	10/115,646	2002-04-03	

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	/Eric Y. Teng/	Date (YYYY-MM-DD)	2010-01-12
Name	Eric Y. Teng		

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
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In re Patent No. 6722043
Issue Date: April 20,2004
Application No. 10115646
Filed: April 3,2002
Attorney Docket No.

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

This is a decision on the electronic petition, filed January 12,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 12,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/24/06

TO SPE OF : ART UNIT ~~2636~~ 2612

SUBJECT : Request for Certificate of Correction on Patent No.: 10/115656 6965316

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

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

_____

_____

_____

_____

_____

SPE 2612 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMSON MULTIMEDIA LICENSING INC.
PATENT OPERATIONS
P.O. BOX 5312
PRINCETON, NJ 08543-5312

COPY MAILED

MAR 11 2004

OFFICE OF PETITIONS

In re Application of :
Timothy G. Reynolds et al :
Application No. 10/115,657 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. PU020374 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee and formal drawings in a timely manner in reply to the Notice of Allowance and Notice of Allowability mailed September 4, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 5, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMSON MULTIMEDIA LICENSING INC.
PATENT OPERATIONS
P O BOX 5312
PRINCETON, NJ 08543-5312

COPY MAILED

MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Timothy G. Reynolds et al :
Application No. 10/115,657 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. PU020374 :

This is a decision on the petition under 37 CFR 3.81(b), filed by facsimile transmission on March 16, 2004, for issuance of patent to assignee on a late assignment.

The petition is granted.

In view of the expedited issuance of patents, the printing process of this application may have progressed to the point where the corrected assignee data cannot be included on the printed patent. If the corrected assignee data does not appear on the printed patent, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323 and pay the $100 fee therefor.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-8680. Any questions concerning the issuance of this application into a patent should be directed to Customer Services at (703) 308-6789.

The matter is being forwarded to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW 08-04

APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT
PATENT COUNSEL, M/S 2061
P.O. BOX 450A
SANTA CLARA CA 95052

COPY MAILED

AUG 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Chandran et al.	:	DECISION DISMISSING
Application No. 10/115,665	:	PETITION AS MOOT
Filed: 2 April, 2002	:	
Attorney Dkt No. A2561D1/T25010	:	

This is a decision on the petition, filed under 37 CFR 1.10(c) on 22 July, 2002, requesting that the above-identified application be accorded a filing date of 2 April, 2002.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

A review of the Office PALM records reveals that this application was previously accorded a filing date of 2 April, 2002.

As the application has been accorded a filing date of 2 April, 2002, the present petition is unnecessary and will be dismissed as involving a moot issue.

A replacement Filing Receipt is enclosed for petitioners' reference.

No petition fee is due. The petition fee paid of $130.00 will be credited to counsel's deposit account, No. 20-1430, as authorized in the present petition.

The application is being forwarded to the Publishing Division for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cf: Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

JUN 03 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re application of:
Daniel Blumenthal
Application No. 10/115,680
Filed: April 02, 2002
For: OPTICAL AMPLIFICATION IN PHOTONIC SWITCHED CROSSCONNECT SYSTEMS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on May 16, 2005.

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

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

All attorneys/agents associated with customer number 20350 have been withdrawn.

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

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

cc: Andrew D. Hill, Esq.
Calient Networks, Inc.
6620 Via Del Oro, First Floor
San Jose, CA 95119

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
DANIEL BLUMENTHAL et al. :
Application No. 10/115,680 : DECISION ON PETITION
Filed: April 02, 2002 :
Attorney Docket No. 4341P065 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 17, 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 December 05, 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 March 06, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Accordingly, the reply to the reply non-final Office action filed November 17, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Jean Duverne at (571) 272-6051 or in his absence to the undersigned.

The application file is being referred to Technology Center AU 2633 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

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JUN 0 1 2005

OFFICE OF PETITIONS

Yasuo Muramatsu
Suite 225
7700 Irvine Center Drive
Irvine, CA 92618

In re Application of :
Brunner and Schmid :
Application No.: 10/115,685 : ON PETITION
Filed: April 4, 2002 :
Attorney Docket No: ZIMMAN.001AUS :

This is in response to the petition under 37 CFR 1.137(b) filed March 14, 2005.

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

On May 1, 2002, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two-month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). The Notice required an oath or declaration and $65.00 surcharge. A proper response was not received within the allowable period, and the application became abandoned on July 2, 2002. A Notice of Abandonment was mailed on January 21, 2004.

The above-identified application had been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition pursuant to 37 CFR 1.1379b) was unintentional. See *Changes to Patent Practice and Procedure*, 62 Fed. Reg, at 53160 and 53178.

The declaration filed March 14, 2005, is noted and made of record.

This application 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 (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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MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

COPY MAILED
JUL 26 2006
OFFICE OF PETITIONS

In re Application of :
Mendelson :
Application No. 10/115,714 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. NPSTR-01700 :

For: METHOD AND APPARATUS FOR CONTROLLING FILE SHARING OF MULTIMEDIA FILES OVER A FLUID, DE-CENTRALIZED NETWORK

This is a decision on the petition, filed May 31, 2006 (certificate of mailing date May 25, 2006) under 37 CFR 1.48(a) for correction of inventorship and the correspondence entitled, "DECLARATION OF FACTS IN SUPPORT OF APPLYING ON BEHALF OF OMITTED INVENTORS pursuant to 37 CFR 1.47(a)", which will be treated as a petition requesting waiver under 37 CFR 1.183 of 37 CFR 1.64, which requires each of the actual inventors to execute the declaration.

The petition under 37 CFR 1.183 to waive 37 CFR 1.64 is **DISMISSED**.

The petition under 37 CFR 1.48(a) to correct inventorship 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. FAILURE TO TIMELY RENEW THE PETITION WILL RESULT IN ABANDONMENT. The reconsideration request should include a cover letter entitled "Renewed Petitions under 37 CFR 1.48 and 1.183.

An executed declaration in compliance with 37 CFR 1.63 was filed on June 17, 2002. The executed declaration listed only one inventor -- Jordan Mendelson.

The instant petitions were filed to correct the inventorship by adding Shawn Fanning as a joint inventor. Mr. Fanning has executed the new declaration listing both him and Mr. Mendelson and

has provided a statement regarding his lack of deceptive intent in not being named as an inventor from the beginning of the application process. Mr. Mendelson has not signed the new declaration listing Mr. Fanning as a joint inventor. The evidence presented shows that Mr. Mendelson was unsuccessfully e-mailed at his presumed current work address and that a package containing the application papers and a new declaration that lists both him and Mr. Fanning as joint inventors was delivered to his presumed current work address. The package was delivered to the front desk of the company. Mr. Mendelson did not return an executed declaration.

While this waiver petition is not a petition under 37 CFR 1.47, it is evaluated the same way a Rule 47 petition is with respect to inventor refusal to sign/cannot be reached issues.

Applicant has not proved refusal or inability to locate the inventor because it is not apparent that Mr. Mendelson received the application papers. The application papers should be sent to the place where he customarily receives his mail. MPEP 605.03 states that in situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be utilized. The application papers were mailed to his presumed current business address. It is noted that e-mails to his work address were not deliverable. If Mr. Mendelson wasn't located within the organization, it is very possible that the papers were shuffled from place to place within the organization, rather than returned to sender.

Petitioner should send the application papers to the inventor's last known home address with a request that he sign the declaration. Please state why the application papers were not mailed to Mr. Mendelson's Mission Street address, as listed in the June 17, 2002 executed declaration. A clear statement of the inventor's last known address is missing and is required. If it is the same as that cited in the June 17, 2002 declaration, please make that assertion in any reconsideration petition. If the mailing to his last known home address is successful and Mr. Mendelson does not respond to the request that he sign the declaration, then petitioner will prove his refusal to cooperate.

If the mailing is not successful, then petitioner will have to show that Mr. Mendelson cannot be located. The applicable statute (35 U.S.C.116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. See MPEP 409.03(a). The record currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate Mr. Mendelson as to obtain his statement under 37 CFR 1.48(a)(1).

The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made.

Documentary evidence that supports a finding that the non-signing inventor can not be found or

reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records would suffice.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

On the issue of e-mail: E-mailing is generally not accepted as a means to communicate with non-signing inventors. This is because the Office cannot know definitely if the message was received; people are not as careful in deleting e-mails as they are in throwing out mail as shown by bulk folder deletions and the fact that some people might not check e-mails frequently; the Office does not know if the recipient has the program to open the specific attachment; and PTO guidelines regarding accepting e-mail reflects the fact that the Office does not have the same confidence in e-mail as it does in USPS service.

The Office typically requires documentary evidence of successful e-mailing in the form of a response e-mail from the non-signing inventor in which the inventor acknowledges receipt of the e-mail and his ability to read the attachments.

Examining the new declaration, it is noted that Mr. Fanning and Mr. Mendelson have the same address. Logically, since Mr. Fanning and Mr. Mendelson do not work together or live together, then they do not receive mail at the same address.

MPEP 605.03 states that, "Applicant's mailing address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the mailing address.... In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given...."

The available inventors must execute a new declaration that lists the most recent home address or mailing address for Mr. Mendelson. MPEP 605.03

Regarding finances, deposit account number 50-0805 will be charged the required $400.00 Rule 183 petition fee.

The petition under 37 CFR 1.183 to waive 37 CFR 1.64 is dismissed.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition including a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (2) an

oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (3) the fee set forth in 37 CFR 1.17 (I); and (4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

Petitioner will not satisfy the requirements of 37 CFR 1.48(a) until petitioner file a grantable petition under 37 CFR 1.183 to waive 37 CFR 1.64. Thus, the petition under 37 CFR 1.48 is dismissed.

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

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COPY MAILED

JAN 16 2007

OFFICE OF PETITIONS

In re Application of :
Mendelson, et al. :
Application No. 10/115,714 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. NAPSP281 :
For: METHOD AND APPARATUS FOR CONTROLLING FILE SHARING OF MULTIMEDIA FILES OVER A FLUID DE-CENTRALIZED NETWORK

This is a decision on the petition, filed November 7, 2006 (certificate of mailing date November 2, 2006) under 37 CFR 1.48(a) for correction of inventorship and waiver under 37 CFR 1.183 of 37 CFR 1.64, which requires each of the actual inventors to execute the declaration. This decision addresses the petition, filed September 21, 2006, certificate of mailing date September 19, 2006) under 37 CFR 1.182 to withdraw and/or suspend the final Office action mailed September 5, 2006.

The petition under 37 CFR 1.183 to waive 37 CFR 1.64 is **GRANTED**.

The petition under 37 CFR 1.48(a) to correct inventorship is **GRANTED**.

The petition under 37 CFR 1.182 to withdraw and/or suspend the final Office action mailed September 5, 2006 is **DISMISSED**.

A final Office action was properly mailed on September 5, 2006. The Office will not suspend action if a reply by applicant to an Office action is outstanding. 37 CFR 1.103. The petition under 37 CFR 1.182 is dismissed.

An executed declaration in compliance with 37 CFR 1.63 was filed in this application on June 17, 2002. The executed declaration listed only one inventor -- Jordan Mendelson.

The November 7, 2006 (certificate of mailing date November 2, 2006) petitions were filed to correct the inventorship by adding Shawn Fanning as a joint inventor.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition including a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (3) the fee set forth in 37 CFR 1.17 (I); and (4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

Mr. Fanning has provided a statement regarding his lack of deceptive intent in not being named as an inventor from the beginning of the application process. Petitioner has submitted the required petition fee. Petitioner has submitted the written consent of the assignee, Napster, Inc..

The only outstanding issue is whether an acceptable declaration has been filed. The declaration filed with the present petitions was executed by William E. Growney, General Counsel for Napster, Inc.. Petitioner is requesting waiver of the rule that requires the actual inventors execute the declaration.

While this waiver petition is not a petition under 37 CFR 1.47(b), it is evaluated in much the same way a Rule 47(b) petition is evaluated.

Petitioner has shown that the non-signing inventors have either constructively or expressly refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of facts of Attorney Gina A. Bibby establishes that the inventors were successfully mailed the application papers, including the specification, claims and drawings, but failed to sign the declaration for patent application. Mr. Mendelson expressly refused to cooperate during a meeting with Attorney Bibby and Richard Mosher, General Counsel of Snocap, Inc., on October 27, 2006. Mr. Fanning constructively refused to join in the filing of the application by failing to return an executed declaration. In addition, petitioner has shown that Napster, Inc. has a proprietary interest in the above-identified application with the copy of two assignment documents signed by Messrs. Mendelson and Fanning, respectively. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64, signed by a person with authority to bind the assignee, Napster, Inc., and petitioner has shown that such action is necessary to prevent irreparable damage.

Please find enclosed a corrected filing receipt reflecting the change in inventive entity.

After the mailing of this decision, the application will be returned to Technology Center A.U. 2163 for consideration of the RCE filed January 8, 2006 (certificate of mailing date January 3, 2006)

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: corrected filing receipt

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FEB - 8 2006

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RAYMOND VAN DYKE
NIXON PEABODY, LLP
SUITE 900
401 9TH STREET
WASHINGTON, D.C. 2004-2128

In re Application of	:
Margot O'Toole et al.	:
Serial No.: 10/115,717	: DECISION ON PETITION
Filed: 03 April 2002	:
Attorney Docket No.: 31896-9200	:

This letter is in response to the Petition under 37 C.F.R. 1.144, filed 07 November 2005 requesting review and withdrawal the Finality of the restriction requirement set forth in the Office action mailed 31 March 2005.

BACKGROUND

A review of the file history shows that this application was filed on 03 April 2002 and claims priority to provisional application 60/281,515 and provisional application 60/281,086, each of which was filed 03 April 2001.

A restriction requirement was mailed to applicants on 08 June 2004, restricting Claims 1-58 into 27 groups. The examiner required further restriction within each of these 27 groups by requiring election of a specific polynucleotide or polypeptide sequence by SEQ ID numbers from Tables 1 and 3-8. If the elected Group was drawn to a polynucleotide or plurality thereof, a single sequence had to be elected and identified. If the elected Group was a polypeptide or plurality thereof, a single sequence had to be elected and identified. If the elected Group was drawn to an antibody or a plurality thereof, a single target sequence of the antibody had to be elected and identified. If the elected group was drawn to a method of use of any of the above molecules, a single sequence had to be elected and specifically identified.

On 08 October 2004 applicants elected the invention of Group I, claims 1 – 6 and 14 – 17. Applicants further elected with traverse the polynucleotide sequence accession number M35833 as the sequence of polynucleotide to be examined. Applicants added claims 59 – 66 by amendment at the same time.

A first action on the merits was mailed to applicants on 31 March 2005, in which the examiner acknowledged the election with traverse and replied thereto and then withdrew claims 7 – 13 and 18 – 66. The restriction requirement was made Final at this time.

A Final rejection was mailed to applicants on 23 August 2005, in which the examiner agreed to rejoin claim 10 with the elected group because applicants argued that M35833 is listed in Table 3. Newly added claims 67 – 69 were also examined with the elected claims. In summary, claims 1 – 6, 10, 14 – 17, and 67 – 69 were examined and claims 7 – 9, 11 – 13, and 18 – 66 were withdrawn as directed to non-elected claims.

DISCUSSION

In their petition, applicants argue that the examiner's restriction requirement improperly limited the term "marker" as recited in claim 1, to either a polynucleotide or a polypeptide, and ignored the specification which describes that a "marker" can also be a gene selected from Table 1 or 3-8. Consequently, applicants view the examiner's grouping as a mischaracterization of the invention. As relief, applicants request that the finality of the restriction be withdrawn and applicants be allowed to elect the MDK gene, which is also known as the MDK_f gene, for prosecution on the merits.

First Alleged Mischaracterization of Invention: Interpreting the meaning of "marker" to mean only polynucleotide and polypeptides

The applicant's first argument concerns the examiner's failure to appreciate the full breadth of the term "marker" as used in claim 1. Applicants maintain that the term "marker" in claim 1 should have been interpreted by the examiner to mean "at least one gene marker" which should have been further interpreted as encompassing "polynucleotide detection, polypeptide detection, polypeptide/polynucleotide function detection, metabolite detection, or downstream effect or detection" (page 4, lines 1 – 5 of instant petition).

Applicant's argument has been fully considered but is not deemed persuasive for the following reasons.

In the summary of the invention in the specification (pages 4 – 9) applicant explicitly defines the preferred markers to be a polynucleotide (cDNA, mRNA) or a polypeptide. The applicant fails to identify specific support for their expanded interpretation of "marker" in the specification itself. Applicants argue what purportedly would been appreciated by the person of skill in the art (page 3, last two lines). Furthermore, the only markers specified among the 58 claims themselves are polynucleotides (mRNA and cDNA) and polypeptides.

Applicants' arguments create a dense cloud of confusion and ambiguity because they now attempt to define "markers" as the gene itself, the gene expression target or any detection molecule. Without pointing to clear and specific support in the specification for this expanded interpretation of "marker," applicants appear to be trying to expand the scope of the invention without adding additional description to the specification.

Second Alleged Mischaracterization of the Invention: Interpreting the genes being diagnosed or assessed as being limited to mouse genes

Finally, applicants argue that the examiner failed to interpret marker genes to encompass human as well as mouse genes. Because all of the claims are directed to method claims, it is unclear whether applicants are trying to say that their method claims encompass using either mouse or human gene markers in their assays or whether they mean that their method claims will detect lupus in both human and mouse models, or both.

Given the ambiguity of applicants' definition in the instant petition, the examiner was quite reasonable in looking for the guidance in both the specification and the claims with regard to the meaning of the term "marker." From the summary of the invention and the claims themselves, it was eminently reasonable for the examiner to divide the claims by both the types of methods and by the type of marker, e.g., polynucleotide or polypeptide. In order for an examiner to properly examine a case, applicants must be required to be as clear as possible about the specific steps of any method for diagnosing or monitoring a disease. By referencing only Genbank accession numbers in Tables 1 and 3 – 8, applicants have created further ambiguity in the invention because accession numbers do not necessarily represent one and only one polynucleotide or polypeptide sequence since revisions and corrections may be, and historically have been, made to the sequences identified by a Genbank accession number at any time.

By parsing the 58 original claims into 27 inventions, the examiner has made a fair and reasonable separation of patentably distinct inventions and explained why an undue burden exists to search more than a single group. If one were to expand the interpretation of the claims as argued by applicants, the total number of groups would have only been increased and one would have had to create inventions from applicants intentions rather than from the inventions defined in the specification.

DECISION

For the reasons set forth above, the Petition under 37 C.F.R. 1.144 requesting withdrawal of the finality of the restriction is **DENIED**.

Any request for reconsideration of this decision must be filed within TWO (2) MONTHS of the mailing date of this decision in order to be considered timely.

Should there be any questions regarding this decision, please contact Special Program Examiner, William R. Dixon, Jr. by letter addressed to Directory, 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.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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DW 10-02

Susan K. Porter
14270 Elmcrest Court
Clive, IA 94087

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OCT 1 8 2002

OFFICE OF PETITIONS

In re Application of
Li et al.
Application No. 10/115,723
Filed: 3 April, 2002
For: CUSTOMS INFORMATION SYSTEM WITH ASSIST CALCULATION ENGINE

Dear Ms. Porter:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
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FORT COLLINS CO 80527-2400

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OCT 1 8 2002

OFFICE OF PETITIONS

In re Application of :
Li, Ellis, Lungren, and Porter :
Application No. 10/115,723 : DECISION ACCORDING STATUS
Filed: 3 April, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 10012263-1 :

This is in response to the petition filed under 37 CFR 1.47(a) on 16 September, 2002 (certificate of mailing date 9 September, 2002).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Susan K. Porter, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established, via the declaration of John A. Griecci, that a copy of the above-identified application was sent to the non-signing inventor.
The non-signing inventor, however, failed to return an executed declaration naming her as a joint inventor along with Mei Li, Theresa M. Ellis, and Edward W. Lungren.

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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NEW BRUNSWICK, NJ 08933-7003

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OCT 14 2004

OFFICE OF PETITIONS

In re Application of :
Jacqueline C. Bussolari, et al. :
Application No. 10/115,725 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. ORT-1617 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 5, 2004.

The application became abandoned for failure to pay the issue fee on or before April 29, 2004. Receipt is acknowledged of the requisite issue fee on August 5, 2004.

The petition is GRANTED.

The application is being forwarded to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

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

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FERNANDEZ & ASSOCIATES, LLP
PATENT ATTORNEYS
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MENLO PARK, CA 94026-6204

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of
Tom Peter Edward BROEKAERT
Application No. 10/115,729
Filed: April 3, 2002
Attorney Docket No. INPHI-P018

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 11, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Fernandez & Associates, LLP has been revoked by the assignee of the patent application on April 11, 2007. 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.

There is an outstanding Office action mailed March 21, 2007 that requires a reply by the applicant.

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

April Wise
Petitions Examiner
Office of Petitions

cc: SOCAL IP LAW GROUP LLP
ATTN: JOHN GUNTHER
310 N. WESTLAKE BLVD.,
SUITE 120
WESTLAKE VILLAGE, CA 91362

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NEW YORK, NY 10036-8403

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SEP 30 2005

OFFICE OF PETITIONS

In re Application of :
Kohji Andoh et al :
Application No. 10/115,757 : ON PETITION
Filed: April 2, 2002 :
Attorney Docket No. IR-1664 (2-2944) :

This is a decision on the petition under 37 CFR 1.313(c)(3), filed September 23, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application.

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

This matter is being referred 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
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ALEXANDRIA, VA 22313-1450

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Date : September 30, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Kohji Andoh et al
Application No. : 10/115,757
Filed : April 2, 2002

The above-identified application has been assigned Patent No. 6,956,275 and an issue date of October 18, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. 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 18, 2005:

"All reference to Patent No. 6,956,275 to Kohji Andoh et al of El Segundo, CA for FAST RECOVERY DIODE WITH A SINGLE LARGE AREA P/N JUNCTION appearing in the Official Gazette of October 18, 2005 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; MDW, Suite 04B03 (FAX-571-273-5468)
Deneise Boyd, MDE, Suite 03D39 (FAX-571-273-5124)
Mary Louise McAskill, South Tower, Suite 8C15(FAX 305-4372)
Niomi Farmer, South Tower, Suite 8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE, Suite 07C71 (FAX-571-273-0038)
Duane Davis (CDS), MDE, Suite 07D89
Tamara K. Greene, South Tower, Suite 08C13

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JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WAGNER, MURABITO & HAO, LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

In re Application of :
Jahangir MOHAMMED :
Application No. 10/115,767 : DECISION ON PETITION TO
Filed: April 2, 2002 : MAKE SPECIAL

For: **METHOD FOR AUTOMATIC AND SEAMLESS CALL TRANSFERS BETWEEN A LICENSED WIRELESS SYSTEM AND AN UNLICENSED WIRELESS SYSTEM**

This is a decision on the petition filed December 3, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition does not fulfill the requirement in item (6) in that the references are not fully discussed with the particularity required by 37 C.F.R. § 1.111(b).

For the above stated reasons, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement under oath giving the information as outlined above. No further petition fee is required. Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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Irvine, CA 92618

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MAR 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Shyan-Jer Lay :
Application No. 10/115,779 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. JCLA7360 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A "Notice of Allowance and Issue Fee Due" was mailed to applicant on July 13, 2004, which set a three-month shortened statutory period for reply. Since the issue fee was not timely paid, the application became abandoned on October 14, 2004.

The Office acknowledges receipt of the issue fee, which was submitted with the instant petition.

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

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

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

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ITHACA, NY 14850

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JUN 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Danilo R. Venus et al :
Application No. 10/115,792 : NOTICE
Filed: April 3, 2002 :
Attorney Docket No. DIZ-2 :

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

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

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

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

This matter is being referred to Technology Center AU 1615.

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

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Paper No. 6

Ying Chao Ruan
558 Marble Arch Avenue
San Jose, CA 95136

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FEB 26 2004
OFFICE OF PETITIONS

In re Application of :
Ying Chao Ruan, et al. :
Application No. 10/115,810 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. N/A :

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

The petition is **DISMISSED.**

Any further petition to revive 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." 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: (1) the required reply, unless previously filed;[1] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks item (3).

---

[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.

A Notice to File Corrected Application Papers (Notice) was mailed to applicant on May 10, 2002, setting a two-month period within which to reply. Since no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, this application became abandoned on July 11, 2002.

The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 151 and 37 CFR 1.137(a). See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

The showing of record does not show that the delay in this case was unavoidable within the meaning of 35 USC 151 and 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).

Petitioner asserts the illness and death of his spouse, as well as his incapacitation, were the cause of the delay. While the Office is sympathetic to petitioner's situation and petitioner's wife's illness and death were indeed unfortunate, petitioner has not provided any evidence to establish that the delay in submitting a reply to the Notice was unavoidable. A showing of "unavoidable" delay based upon incapacitation must establish that petitioner's incapacitation was of such nature and degree as to render petitioner unable to conduct business (*e.g.*, correspond with the Office) during the period between May 10, 2002 and December 10, 2002. Such a showing must be supported by a statement from petitioner's treating physician, and such statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period.

Petitioner also states that after checking his records, he did not find the Notice from the Office. Petitioner has not provided any proof to corroborate the allegations of non-receipt of the Office action of May 10, 2002. The showing required to establish nonreceipt of an Office communication must include a statement from practitioner stating that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

Petitioner should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $665 petition fee. A blank petition form under 37 CFR 1.137(b) is attached herewith for petitioner's use.

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 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
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
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

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

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

Attachment: Blank Petition Form Under 37 CFR 1.137(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ying Chao Ruan
558 Marble Arch Ave.
San Jose CA 95136

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MAY 1 1 2006

OFFICE OF PETITIONS

In re Application of :
Ying Chao RUAN et al. :
Application No. 10/115,810 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. N/A :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed April 29, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply; (2) the petition fee of $55; and (3) a showing to the satisfaction of the Commissioner that the entire delay was unavoidable.

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

Telephone inquiries concerning this decision should be directed to David Bucci at (571) 272-7099.

Brian Hearn
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SALLY J. BROWN
AUTOLIV ASP, INC.
3350 AIRPORT ROAD
OGDEN, UT 84405

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OFFICE OF PETITIONS

In re Application of	:	
Quin Soderquist	:	
Application No. 10/115,856	:	ON PETITION
Filed: April 3, 2002	:	
Attorney Docket No. 14154	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed August 31, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 1, 2004.

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

This matter is being forwarded to the Publishing Division.

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
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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

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OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki :
Application No. 10/115,915 : ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. 740756-2465 :

This is a decision on the petition, filed February 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 January 10, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2823 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : February 9, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/115,915

Applicant(s) :Shunpei Yamazaki
Application No. :10/115,915
Filed :April 5, 2002

The above-identified application has been assigned Patent No. 6,858,476 and an issue date of February 22, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicants.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 22, 2005:

> "All reference to Patent No. 6,858,476 to Shunpei Yamazaki of Japan, for METHOD OF MANUFACTURING A SEMICONDUCTOR FILM AND METHOD OF MANUFACTURING A SEMICONDUCTOR DEVICE appearing in the Official Gazette of February 22, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

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NEAL, GERBER, & EISENBERG
SUITE 2200
2 NORTH LASALLE STREET
CHICAGO, IL 60602

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :

McGovern, et al. :

Application No. 10/115,954 :

Filed: April 5, 2002 :

Attorney Docket No. 18456.01US3

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed June 2, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on November 26, 2005, after it was believed that no response was received to the non-final Office action mailed August 25, 2005. The non-final Office action allowed a period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on April 6, 2006, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that an amendment responsive to the non-final Office action was transmitted via facsimile on December 27, 2005. A copy of the amendment containing a certificate of facsimile transmission dated December 27, 2005, and noting seven pages as having been successfully transmitted to a USPTO fax line on December 27, 2005, accompanied the petition.

The response submitted December 27, 2005, has not been located in the Office. In view of the evidence submitted, the response is deemed timely. Petitioner is cautioned, however, that all correspondence (with a few exceptions) transmitted by facsimile should be directed to the central facsimile number of (571) 273-8300. See *MPEP* 502.01.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

Inquiries regarding this decision may directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 3600, GAU 3624, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

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OFFICE OF PETITIONS

In re Patent No. 6,822,900 :
Issue Date: November 23, 2004 :
Application No. 10/115,956 : ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. 112500 :

This is a decision on the petition under 37 CFR 1.182, filed June 5, 2006, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letter Patent.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of the duplicate Letters Patent should be directed to either Krystal Paige at (703) 308-9250 ext. 139.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower 8th Floor, C-32 Fax (571) 270-9937.

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JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of :
Jahangir MOHAMMED :
Application No. 10/116,023 : DECISION ON PETITION TO
Filed: April 2, 2002 : MAKE SPECIAL

For: **METHOD FOR AUTHENTICATING ACCESS TO AN UNLICENSED WIRELESS COMMUNICATIONS SYSTEM USING A LICENSED WIRELESS COMMUNICATIONS SYSTEM AUTHENTICATION PROCESS**

This is a decision on the petition filed December 3, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition does not fulfill the requirement in item (6) in that the references are not fully discussed with the particularity required by 37 C.F.R. § 1.111(b).

For the above stated reasons, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement under oath giving the information as outlined above. No further petition fee is required. Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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JONES DAY
51 LOUISIANA AVENUE, N.W.
WASHINGTON, DC 20001-2113

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OFFICE OF PETITIONS

In re Application of	:	
Dani Birnbaum et al	:	DECISION ON PETITION
Application No. 10/116,060	:	TO WITHDRAW
Filed: April 5, 2002	:	FROM RECORD
Attorney Docket No. 10553-011	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 15, 2005.

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 it is unclear as to who the attorney signing the request has authority over. The request was signed by Victor Banancia, a partner at the law offices of Morgan Lewis & Bockius LLP and an attorney of record in the instant application, who states that he is vested with full rights and authority to represent all other patent attorneys or agents of record. As Victor Banancia is now working for Morgan Lewis & Bockius LLP, it is unclear from the record, who the attorney has authority over, i.e., is it the attorneys of Morgan Lewis & Bockius LLP who are not of record or is it the attorneys of Penny & Edmonds who are of record. A clear statement indicating exactly whom the signing attorney is signing on behalf of is required.

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

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

Ainella Au
Petitions Examiner
Office of Petitions

cc: MORGAN LEWIS & BOCKIUS
1111 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004

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MAR 24 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of
Zhengxing Qu et al
Serial No.: 10/116,116
Filed: April 5, 2002
Attorney Docket No.: 018733-1064

: WITHDRAWAL OF ATTORNEY

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

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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Faegre & Benson, LLP
Patent Docketing
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901

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MAY 21 2007

OFFICE OF PETITIONS

In re Application of :
Zhengxing Qu et al. :
Application No. 10/116,116 : DECISION ON PETITION
Filed: April 5, 2002 : TO MAKE SPECIAL UNDER
Attorney Docket No. 329529 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 13, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a signed declaration/affidavit. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 1644 for action on the merits commensurate with this decision.

Frances Hicks
Petitions Examiner
Office of Petitions

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JUN 8 2004

CHIRON CORPORATION
INTELLECTUAL PROPERTY LAW DEPT.
PO BOX 8097
EMERYVILLE CA 94662

In re Application of :
Paul A. Renhowe et al :
Serial No.: 10/116,117 : PETITION DECISION
Filed: April 5, 2002 :
Attorney Docket No.: 072121-0162 :

This is in response to the petition under 37 CFR 1.59(b), filed January 2, 2004, to expunge a Proprietary Information Disclosure Statement from the above identified application. This application has not been allowed nor had an *ex parte Quayle* action mailed.

Petitioner requests that documents submitted with the petition as a Proprietary Information Disclosure Statement (PIDS) be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The examiner of the application will consider the information contained in the PIDS and will determine whether the information contained therein relates to the determination of patentability of this application. The result of such determination will be set forth by the examiner in a future Office action. Should any of the information contained in the PIDS be used in a rejection that information will be made part of the official record of the application. If none of the information is pertinent to the determination of patentability the PIDS will be returned to applicants upon allowance of the application.

The petition is **GRANTED** to the extent indicated. Upon allowance of the application applicants should immediately submit a request, directed to the TC, for return of the PIDS. No fee will be required for such request.

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.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Jahangir Mohammed
Application No. 10/116,186
Filed: April 2, 2002
For: **WIRELESS COMMUNICATIONS HANDSET FOR FACILITATING LICENSED AND UNLICENSED WIRELESS COMMUNICATIONS, AND METHOD OF OPERATION**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed December 10, 2004 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) submit a detailed discussion of the references, which discussion points out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition does not fulfill the requirement in item (6) in that the references are not fully discussed with the particularity required by 37 C.F.R. § 1.111(b). Applicant's petition is devoid of the detailed discussion of each of the references. Instead, the petition provides a broad brushed statement that the cited references don't disclose the sole claim in the case.

For the above stated reasons, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by supplying the information as outlined above. No further petition fee is required.

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

Dwayne Bost
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
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WOLF, BLOCK, SHORR AND SOLIS-COHEN LLP
250 PARK AVENUE
10TH FLOOR
NEW YORK, NY 10177

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of Shemer et al. :
Application No. 10/116,201 : Decision Dismissing Petitions
Filing Date: April 3, 2002 : Under 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. IMP031.228761 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 8, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and 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 Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim after the filing date of the application, the amendment is not proper. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

The amendment fails to properly indicate the relationship of the applications. The amendment indicates 09/101,723 is "based upon" PCT/IL97/00012. However, the words "based upon" are not considered by the Office to state a clear relationship between applications. Petitioner may wish to replace the language, "in turn in based upon PCT Patent Application No. PCT/IL97/00012," with language such as, "is the national stage filing under 35 U.S.C. 371 of PCT/IL97/00012."

The amendment states the PCT application is "based upon" three provisional applications and one non-provisional application. As stated earlier, the words "based upon" are not considered by the Office to state a clear relationship between applications. Petitioner may wish to replace the words, "in turn is based upon" with words such as, "claims the benefit of."

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters is required.

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

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

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

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

Any questions concerning this matter may be directed to 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

WOLF, BLOCK, SHORR AND SOLIS-COHEN LLP
250 PARK AVENUE
10TH FLOOR
NEW YORK, NY 10177

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MAY 23 2007

OFFICE OF PETITIONS

In re Application of Shemer et al. :
Application No. 10/116,201 : Decision Dismissing Petitions
Filing Date: April 3, 2002 : Under 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. IMP031.228761 :

Corrected Decision:

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 8, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and 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 Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

A prior decision mailed May 21, 2007, discussed problems with the amendment filed with the petition on February 8, 2007. However, a new amendment was filed May 10, 2007. The instant corrected decision discusses the May 10, 2007 amendment.

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim after the filing date of the application, the amendment is not proper. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

The amendment states the instant application is a continuation of Application Number 08/595,365, which issued as Patent No. 5,738,096, on April 14, 1998. Since the instant application lacks copendency with Application No. 08/595,365, the priority claim is improper.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters is required.

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

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

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

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

Any questions concerning this matter may be directed to Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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250 PARK AVENUE
10TH FLOOR
NEW YORK, NY 10177

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of Shemer et al. :
Application No. 10/116,201 : Decision Granting Petitions
Filing Date: April 3, 2002 : Under 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. IMP031.228761 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 31, 2007, and supplemented June 15, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **granted**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) 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 Director may require additional where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the 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 application is being forwarded to Technology Center Art Unit 3766 for consideration by the examiner of the claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications and the claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional applications.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven Brantley
Senior Petitions Attorney
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	TOT CLMS	IND CLMS
10/116,201	04/03/2002	3766	2216	501049.20524 (20066-90)	58	4

CONFIRMATION NO. 1023

CORRECTED FILING RECEIPT

OC000000024409492

54042
WOLF, BLOCK, SHORR AND SOLIS-COHEN LLP
250 PARK AVENUE
10TH FLOOR
NEW YORK, NY 10177

Date Mailed: 06/18/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Itzik Shemer, Haifa, ISRAEL;
Bella Felzen, Haifa, ISRAEL;
Nissim Darvish, Moshav Tsrufa, ISRAEL;
Yuval Mika, Shmurat Zichron, ISRAEL;
Walid Haddad, Haifa, ISRAEL;
Ricardo Aviv, Haifa, ISRAEL;
Yaakov Haham, Kiriat Ata, ISRAEL;

Power of Attorney:

Raymond Gable--22479
Michael Wolfson--24750
William Dippert--26723
Morey Wildes--36968

Domestic Priority data as claimed by applicant

This application is a CON of PCT/IB00/01523 10/04/2000
and is a CIP of 10/039,845 10/23/2001
which is a CON of 09/563,544 05/01/2000 PAT 6,363,279
which is a CON of 09/101,723 08/13/1998 PAT 6,317,631
which is a 371 of PCT/IL97/00012 01/08/1997
which is a CON of 08/595,365 02/01/1996 PAT 5,738,096
and claims benefit of 60/009,769 01/11/1996
and claims benefit of 60/011,117 02/05/1996
and claims benefit of 60/026,392 09/16/1996
and said PCT/IB00/01523 10/04/2000
claims benefit of 60/157,511 10/04/1999

and said PCT/IL97/00012 01/08/1997
is a CON of 08/595,365 02/01/1996 PAT 5,738,096

Foreign Applications

ISRAEL 116,699 01/08/1996
ISRAEL 119,261 09/17/1996

If Required, Foreign Filing License Granted: 05/15/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/116,201

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Modulation of intracellular calcium concentration using non-excitatory electrical signals applied to the tissue

Preliminary Class

607

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 5

EI 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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OCT 0 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Lightner et al.	:	
Application No. 10/116,212	:	DECISION DISMISSING
Filed: April 3, 2002	:	PETITION
Attorney Docket No. BB1043 US DIV2	:	

This is a decision on the petition filed June 12, 2002, requesting entry of Page 139 of the specification submitted on June 12, 2002.

The petition is **dismissed**.

It should be noted that the application number is 10/116,212. The petition lists the application number as 10/166,212.

On April 3, 2002, the application was filed.

On May 2, 2002, the Office of Initial Patent Examination mailed a Notice stating that page 139 of the specification was missing.

Petitioner alleges that page 139 was present upon filing. However, although the contents of the transmittal sheet indicate that petitioner intended to file page 139, the contents do not prove that page 139 was actually filed.[1] Even if petitioner could prove that page 139 was present on April 3, 2002, the instant petition could not be granted at this time because a copy of page 139 has not been supplied.

Petitioner's arguments that the substance of page 139 was present upon filing are not persuasive that an actual page 139 was present. However, such arguments may be relevant in the determination whether an amendment adding page 139 seeks to add new matter.

If petitioner desires for the examiner to consider page 139, then petitioner may wish to submit that page via a formal amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a). The amendment will not constitute new matter

---

[1] The last portion of MPEP 513 states,

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

if the substance was a part of the disclosure of the prior application.[2]

The original application papers will include only those application papers present on the date of deposit.

Since the present petition was not necessitated by any error on the part of the Office, the $130.00 petition fee will not be refunded.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 3, 2002, using only the application papers filed on April 3, 2002.

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

---

[2] It is noted that the application transmittal letter identified this application as a continuation of a prior application and specifically incorporated by reference the disclosure of the prior application. MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GO

Paper No. 3

JOSEPH TEJA, JR.
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210

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MAY 27 2003

OFFICE OF PETITIONS

In re Application of :
Kevin Dowling :
Application No. 10/116,222 : NOTICE
Filed: April 4, 2002 :
Attorney Docket No. C01104/70037 RJP/JT

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
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Paper No. 3

WAGNER, MURABITO & HAO LLP
THIRD FLOOR
TWO NORTH MARKET STREET
SAN JOSE, CA 95113

COPY MAILED

JUL 1 1 2002

OFFICE OF PETITIONS

In re Application of :
Luu Tran et al : DECISION GRANTING
Application No. 10/116,231 : PETITION
Filed: April 3, 2002 :
Attorney Docket No. SUN-P6493NPUS/NC :

This is a decision on the petition filed June 5, 2002, to accord the above-identified application a filing date of April 3, 2002, instead of April 4, 2002.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of April 3, 2002.

A petition fee is unnecessary for a petition requesting relief under 37 CFR 1.10. Therefore, a refund of the petition fee will be scheduled.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of April 3, 2002.

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

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

D. Fenstermacher

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/116,237

Paper No.: _____

DATE : 8/5/05

TO SPE OF : ART UNIT 3682

SUBJECT : Request for Certificate of Correction on Patent No.: 6904823

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

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

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

_____

_____

_____

_____

_____

C Mann — **SPE**

3681 — **Art Unit**

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

MAILED

MAR 2 3 2010

OFFICE OF PETITIONS

In re Application of :
Jay et al. :
Application No. 10/116,258 :
Filed: April 4, 2002 :
Attorney Docket No. 21486-053 :

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705(b)" filed October 1, 2009. Applicants request the initial determination of patent term adjustment be corrected from three hundred sixty-seven (367) days to seven hundred sixty-one (761) days.

The request for reconsideration of the initial determination of patent term adjustment is **granted to the extent indicated herein**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 365 days. A copy of the updated PALM screen showing the correct determination is enclosed.

On August 16, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised of a patent term adjustment to date of 367 days. In response, applicants timely filed this application for patent term adjustment with payment of the issue fee on October 1, 2009.

Applicants assert the patent term adjustment should be increased by 396 days for Office delay under 35 U.S.C. § 154(b)(1)(B) ("B delay").

Applicants also assert the patent term adjustment indicated in the Determination of Patent Term Adjustment may be incorrect as a result of the Office using incorrect dates when computing two instances of Applicant Delay under 37 C.F.R. § 1.705(b).

B Delay

To the extent applicants request 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 request is 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 37 C.F.R. § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the 37 C.F.R. § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 C.F.R. § 1.702(a)(4) or applicant delay under 37 C.F.R. § 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 C.F.R. § 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.

Rather than file an application for patent term adjustment under 37 C.F.R. § 1.705(b) contesting the 37 C.F.R. § 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant 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 C.F.R. § 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 C.F.R. § 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 C.F.R. § 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]

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 C.F.R. § 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

Applicant Delay in Responding to the Notice Mailed May 10, 2002

37 C.F.R. § 1.704(b) provides for a reduction when a party takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request. Specifically, 37 C.F.R. § 1.704(b) states,

> [A]n 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

[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.

> 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 Office mailed a Notice to File Missing Parts of Nonprovisional Application on May 10, 2002.

Applicants mailed a reply using Express mail. The Office stamped the reply with a filing date of September 4, 2002. As a result, the Office determined the period of Applicant delay under 37 C.F.R. § 1.704(b) in responding to the May 10, 2002 Notice was 25 days.

The instant request asserts the reply was mailed September 5, 2002, not on September 4, 2002. The request is accompanied by a copy of the relevant Express Mail label which includes a handwritten "date-in" of September 5, 2002, and a stamped date of receipt by the USPS of September 5, 2002.

Based on the evidence of record, the Office is persuaded the reply to the May 10, 2002 Notice was filed on September 5, 2002.

Since the reply was filed September 5, 2002, the Office should have entered a reduction of 26 days, not 25 days, for Applicants' delay under 37 C.F.R. § 1.704(b) in responding to the May 10, 2002 Notice.

The period of reduction of 25 days has been removed and replaced with a reduction of 26 days.

Applicant Delay in Responding to the Office Action Mailed May 2, 2007

The Office mailed a final Office action on May 2, 2007.

When the Office received a reply to the Office action, the Office entered October 30, 2007, as the date of receipt in the Office's PALM computer system. As a result of the computer entry, the Office determined the period of Applicant delay under 37 C.F.R. § 1.704(b) in responding to the May 2, 2007 Office action was 89 days.

Applicants contend the reply was filed electronically on October 31, 2007, not October 30, 2007, and a review of the Office's electronic file folder for the application verifies the reply was filed October 31, 2007.

Since the reply was filed October 31, 2007, the Office should have entered a reduction of 90 days, not 89 days, for the delay under 37 C.F.R. § 1.704(b) in responding to the May 2, 2007 Office action.

The period of reduction of 89 days has been removed and replaced with a reduction of 90 days.

Conclusion

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed with the Notice of Allowance on August 16, 2009, advised of a patent term adjustment to date of 367 days.

Applicants have demonstrated a reduction of 26 days, not 25 days, should have been entered for delay in responding to the May 10, 2002 Office action.

Applicants have demonstrated a reduction of 90 days, not 89 days, should have been entered for delay in responding to the May 2, 2007 Office action.

In view of the prior discussion, the patent term adjustment amount as of the mail date of the Notice of Allowance is 365 days, not 367 days.

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

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Monday
Date: 3/22/2010

PALM INTRANET

Time: 12:51:43

PTA Calculations for Application: 10/116258			
Application Filing Date:	04/04/2002	PTO Delay (PTO):	730
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	363
Post-Issue Petitions:	0	Total PTA (days):	365
PTO Delay Adjustment:	-2		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
93	03/22/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		2	
86	08/06/2009	MAIL NOTICE OF ALLOWANCE			
85	08/03/2009	ISSUE REVISION COMPLETED			
84	08/03/2009	DOCUMENT VERIFICATION			
83	08/03/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
82	08/03/2009	NOTICE OF ALLOWABILITY			
81	01/26/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
80	05/19/2009	DATE FORWARDED TO EXAMINER			
79	04/16/2009	RESPONSE AFTER NON-FINAL ACTION		31	74
78	04/16/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
77	01/26/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
76	02/25/2009	FINISHED INITIAL DATA CAPTURE			
75	01/26/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
74	12/16/2008	MAIL NON-FINAL REJECTION			
73	12/09/2008	NON-FINAL REJECTION			
72	09/10/2008	REFERENCE CAPTURE ON IDS			
71	09/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
70	10/07/2008	DATE FORWARDED TO EXAMINER			
69	09/10/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
68	10/07/2008	DISPOSAL FOR A RCE / CPA / R129			
		INFORMATION DISCLOSURE STATEMENT			

67	09/10/2008	CONSIDERED			
66	09/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	09/10/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
64	06/27/2008	PUBS CASE REMAND TO TC			
63	07/02/2008	WORKFLOW - QUERY REQUEST - BEGIN			
62	06/16/2008	EXPORT TO INITIAL DATA CAPTURE			
61	06/11/2008	MAIL NOTICE OF ALLOWANCE			
60	06/08/2008	ISSUE REVISION COMPLETED			
59	06/09/2008	DOCUMENT VERIFICATION			
58	06/09/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
57	06/09/2008	CASE DOCKETED TO EXAMINER IN GAU			
56	06/09/2008	NOTICE OF ALLOWABILITY			
55	03/11/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	01/24/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	04/05/2008	DATE FORWARDED TO EXAMINER			
52	03/19/2008	RESPONSE AFTER NON-FINAL ACTION			
51	03/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	01/24/2008	REFERENCE CAPTURE ON IDS			
49	01/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	03/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	01/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	01/11/2008	MAIL NON-FINAL REJECTION			
45	01/07/2008	NON-FINAL REJECTION			
44	11/05/2007	DATE FORWARDED TO EXAMINER			
43	10/30/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
42	11/05/2007	DATE FORWARDED TO EXAMINER			
41	10/30/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		89	37
40	11/05/2007	DISPOSAL FOR A RCE / CPA / R129			
39	10/30/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			

38	10/31/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
37	05/02/2007	MAIL FINAL REJECTION (PTOL - 326)			
36	04/30/2007	FINAL REJECTION			
35	02/28/2007	DATE FORWARDED TO EXAMINER			
34	02/12/2007	RESPONSE AFTER NON-FINAL ACTION		94	32
33	02/12/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	08/10/2006	MAIL NON-FINAL REJECTION			
31	08/07/2006	NON-FINAL REJECTION			
30	07/07/2006	DATE FORWARDED TO EXAMINER			
29	07/05/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
28	07/07/2006	DATE FORWARDED TO EXAMINER			
27	07/05/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
26	07/07/2006	DISPOSAL FOR A RCE / CPA / R129			
25	04/05/2006	MAIL FINAL REJECTION (PTOL - 326)			
24	04/03/2006	FINAL REJECTION			
23	01/25/2006	DATE FORWARDED TO EXAMINER			
22	01/05/2006	SUPPLEMENTAL RESPONSE		31	20
21	12/19/2005	DATE FORWARDED TO EXAMINER			
20	12/05/2005	RESPONSE AFTER NON-FINAL ACTION		93	17
19	12/05/2005	NEW OR ADDITIONAL DRAWING FILED			
18	12/05/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	06/03/2005	MAIL NON-FINAL REJECTION	730		-1
16	05/31/2005	NON-FINAL REJECTION			
15	05/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	04/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	04/19/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	04/19/2004	REFERENCE CAPTURE ON IDS			
11.7	10/29/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	10/29/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	01/18/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	12/12/2002	TRANSFER INQUIRY TO GAU			
8	09/27/2002	APPLICATION DISPATCHED FROM OIPE			

7	09/26/2002	APPLICATION IS NOW COMPLETE			
6	09/04/2002	ADDITIONAL APPLICATION FILING FEES		25	4
5	09/04/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	05/10/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	04/18/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/04/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Chuan Gao
Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

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AUG 28 2007

OFFICE OF PETITIONS

In re Application of
Adelmann, et al.
Application No.: 10/116,260
Filed: April 3, 2002
For: U.S. Patent No.: 6,828,123

: DECISION
: DISMISSING PETITION

This is in response to the "Petition Under 37 CFR § 1.182 to Reprint Patent" dated 12 January 2005.

The petition is dismissed.

The disclosure of the above-identified application was printed as U.S. Patent 6,828,123 with the following error in the title, as identified by Petitioner: the title printed on the face of the Patent was "Small DNA Encoding Conductance, Calcium-Activated Potassium Channels (SK3)," whereas the title as filed was "Small and Intermediate Conductance, Calcium-Activated Potassium Channels (SK3)."

37 CFR § 1.322 Certificate of correction of Office mistake.

> (a)(1) The Director may issue a certificate of correction pursuant to 35 U.S.C. 254 to correct a mistake in a patent, incurred through the fault of the Office, which mistake is clearly disclosed in the records of the Office:
> (i) At the request of the patentee or the patentee's assignee;
> . . .
> (b) If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form, the Director may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee.

37 CFR § 1.322(b) indicates that the Office may issue a corrected patent in lieu of a certificate of correction, where a corrected patent is considered more appropriate in form than a certificate of correction.

The differences between the title and that which should have been used only comprises a small amount of information appearing on the cover and first page the printed patent, with a remedy achievable via a certificate of correction A certificate of correction can be printed in a shorter amount of time than a reprinted patent. Since the disclosure and claims of the patent were

correctly printed, a certificate of correction is deemed the appropriate form to correct the Office errors in the patent.

Additionally, a review of the file indicates a "Request for Certificate of Correction Under 37 CFR 1.322" was submitted by Applicants on 1 March 2007, making the request for a reprinted patent moot. Accordingly, the request is dismissed.

The application is being returned to the Office of Patent Publication for further processing of the certificate of correction.

Telephone inquiries regarding this communication should be directed to Samuel Broda at (571) 272-7711.

Hiram Bernstein
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
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V. GERALD GRAFELNLIGHT SOLUTIONS, INC.
INLIGHT SOLUTIONS
800 BRADBURYK, S.E.
ALBUQUERQUE, NM 87106

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MAR 2 8 2006

OFFICE OF PETITIONS

In re Application of :
Herbert T. Davis III et al :
Application No. 10/116,272 : ON PETITION
Filed: April 4, 2002 :
Attorney Docket No. 1023.1129101 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed September 26, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 28, 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 the issue fee/publication fee; (2) the petition fee; and (3) the required statement of unintentionally delay have been received. Accordingly, the issue fee/publication fee are accepted as having been unintentional delayed.

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

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(Large Entity)	Docket No. 113197-032

In Re Application Of: **Okada, K., et al.**

JUN 19 2002
PATENT & TRADEMARK OFFICE

COPY OF PAPERS ORIGINALLY FILED

Serial No.	Filing Date	Examiner	Group Art Unit
10/116,291	**April 3, 2002**	**Unknown**	**3729**

Invention: **FLEXIBLE PRINTED CIRCUIT**

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

This is a response to the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533) mailed on **05/09/2002**
Date

Enclosed herewith for filing are the following:

- ☒ A copy of the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533). **(REQUIRED)**
- ☐ An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date.
- ☒ A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date.
- ☐ An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date.
- ☐ A verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the United States Patent and Trademark Office.
- ☒ Other (list):

Certified Copies of Two Japanese Priorty Documents (2001-347787 and 2002-079773)

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(Large Entity)	Docket No. 113197-032

In Re Application Of: **Okada, K., et al.**

Serial No.	Filing Date	Examiner	Group Art Unit
10/116,291	April 3, 2002	Unknown	3729

Invention: **FLEXIBLE PRINTED CIRCUIT**

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

☒ Completion of application fees as calculated below:

☐ Utility application filing fee	
☐ Design application filing fee	
☐ Total number of independent claims = _____	
☐ Total number of claims = _____	
☐ Multiple dependent claims	
☒ Surcharge for late payment of filing fee and/or late filing of original declaration or oath	**$130.00**
☐ Petition and fee for filing by other than all the inventors or a person not the inventor	
☐ Fee for processing an application filed with a non-English language specification	
☐ Fee for processing and retention of application	
Total completion of application fees	**$130.00**

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the above-identified Notice to File Missing Parts of Application. The requested extension is as follows (check time period desired). If an additional time extension is required, please consider this a petition therefor.

☐ One month ☐ Two months ☐ Three months ☐ Four months ☐ Five months

from: _____ *Date* until: _____ *Date*

Total time extension fees _____

Total fees due **$130.00**

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533) (Large Entity)	Docket No. 113197-032

In Re Application Of: **Okada, K., et al.**

Serial No.	Filing Date	Examiner	Group Art Unit
10/116,291	**April 3, 2002**	**Unknown**	**3729**

Invention: **FLEXIBLE PRINTED CIRCUIT**

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

The fee of **$130.00** is to be paid as follows:

☒ A check in the amount of the fee is enclosed.

☒ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **02-1818**
A duplicate copy of this sheet is enclosed.

☐ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No.
A duplicate copy of this sheet is enclosed.

Signature

Dated: **June 13, 2002**

Michael S. Leonard
Reg. No. 37,557
BELL, BOYD & LLOYD LLC
P.O. Box 1135
Chicago, IL 60690-1135
Phone: (312) 807-4270
Fax: (312) 827-1271

I certify that this document and fee is being deposited on **06/13/2002** with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Signature of Person Mailing Correspondence

Robert J. Buccieri

Typed or Printed Name of Person Mailing Correspondence

cc:

P31LARGE/REV02

COPY OF PAPERS ORIGINALLY FILED

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/116,291	04/03/2002	Kenichi Okada	113197-032

BELL, BOYD & LLOYD LLC
P.O. Box 1135
Chicago, IL 60690-1135

OIPE JC37 JUN 19 2002 PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 1240

FORMALITIES LETTER

OC0000000008074968

Date Mailed: 05/09/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

- **$130** Late oath or declaration Surcharge.

06/25/2002 MRICUMES 00000086 10116291
01 FC:105 130.00 OP

A copy of this notice MUST be returned with the reply.

C. Harrison

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUL - 5 2007

RONALD M. GOLDMAN
21535 HAWTHORNE BLVD.
SUITE 500
TORRANCE CA 90503

In re Application of	:
Moats et al.	:
Serial No.: 10/116,348	: PETITION DECISION
Filed: April 4, 2002	:
Attorney Docket No.: 38-0027	:

This is in response to the petition under 37 CFR § 1.181, filed April 17, 2007, requesting that the finality of the Office action of March 7, 2007 be withdrawn because the finality is premature. The delay in responding to this petition is regretted.

BACKGROUND

The examiner mailed a non-final Office action on January 12, 2006, setting a three month shortened statutory period for reply. In this action, claims 1-12 were rejected under 35 U.S.C. 112, second paragraph as being indefinite and rejected under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement. Claims 1-3 were rejected under 35 U.S.C. 102 (b) as being anticipated by Hornik et al., and claims 1-12 were rejected under 35 U.S.C. 103 (a) as being unpatentable over Kohne, Young et al., and Ness et al. Finally, claims 1-12 were rejected under 35 U.S.C. 103 (a) over Hornik et al. and Ness et al.

In response to the non-final Office action of January 12, 2006, applicants amended the specification and claims on April 11, 2006. Applicants also argued the rejections set forth in the action.

The examiner mailed a second non-final Office action on July 28, 2006. In this action, the examiner objected to the amendment filed on April 11, 2006 under 35 U.S.C 132 (a) because the amendment introduced new matter into the disclosure. Claims 1-12 were again rejected under 35 U.S.C. 112, second paragraph as being indefinite and again rejected under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement. Claims 1-12 were

again rejected under 35 U.S.C. 103 (a) as being unpatentable over Kohne, Young et al., and Ness et al. and claims 1-12 were again rejected under 35 U.S.C. 103 (a) over Hornik et al. and Ness et al. Finally, claims 1-5 were newly rejected under 35 U.S.C. 102 (b) as being anticipated by Zock et al. and claims 1-12 were newly rejected under 35 U.S.C 103 (a) as being unpatentable over Zock et al. and Ness et al.

In response to the second non-final Office action of July 28, 2006, applicants asked for reconsideration of the objection and rejections in the Office action of July 28, 2006.

The examiner mailed a final Office action on March 7, 2007, setting a three month shortened statutory period for reply. In this action, the examiner repeated the objection to the amendment filed on April 11, 2006 under 35 U.S.C 132 (a) because the amendment introduced new matter into the disclosure. Claims 1-12 were again rejected under 35 U.S.C. 112, second paragraph as being indefinite and again rejected under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement. Claims 1-12 were again rejected under 35 U.S.C. 103 (a) as being unpatentable over Kohne, Young et al., and Ness et al. and claims 1-12 were again rejected under 35 U.S.C. 103 (a) over Hornik et al. and Ness et al. Claims 1-5 were again rejected under 35 U.S.C. 102 (b) as being anticipated by Zock et al. and claims 1-12 were again rejected under 35 U.S.C 103 (a) as being unpatentable over Zock et al. and Ness et al.

In response thereto, applicants filed this petition on April 17, 2007, requesting that the finality of the Office action of March 7, 2007 be withdrawn because the finality is premature.

DISCUSSION

Applicants argue for the reversal or withdrawal of the holding by the examiner that introduction of the word "pathogenic" within the specification and as a modifier of the term "bioagent" constitutes prohibited new matter which requires cancellation. Applicants' argument is not persuasive. The examiner is correct in making the Office action final since every single objection and rejection set forth in the final Office action was first raised in the non-final Office action. Also, in the final Office action, no new claims were added in any objection or rejection, there were no changes made to the basis of any objection or rejection, and applicants have not raised any allegations to that effect. In fact, applicants' only object to the new matter rejection, which was first raised in the non-final Office action and maintained in the final Office action. It is pointed out that finality cannot be premature for this reason alone, and applicants provide no other reasons for the alleged "prematureness".

DECISION

The petition is **DENIED**. Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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IP DEPARTMENT OF PIPER RUDNICK LLP
ONE LIBERTY PLACE, SUITE 4900
1650 MARKET ST
PHILADELPHIA PA 19103

COPY MAILED

JUN 1 5 2004

OFFICE OF PETITIONS

In re Application of :
Richard et al. :
Application No. 10/116,356 : ON PETITION
Filed: April 4, 2002 :
Attorney Docket No. 1101-02 :

This is a decision on the petition under 37 CFR 1.183 filed June 15, 2004, requesting that issue fee paid by check, in connection with the above-identified application, be refunded.

The petition is **granted**.

A Notice of Allowance was mailed on March 15, 2004.

A check for the issue fee and an issue fee transmittal form have been mailed to the Office. Neither the check nor the transmittal form have been processed prior to the rendering of the instant decision on petition. It is unknown whether or not these documents have been physically received by the Office.

Petitioner requests, in essence, that the check either not be processed or that the issue fee be refunded.

The petition is accompanied by authorization to charge the $130 petition fee to petitioner's deposit account.

The petition expressly abandons the application.

The merits of the petition have considered and the requested relief is granted.

The Office will charge $130 to petitioner's deposit account for the petition fee.

Once the check has been processed, a refund of the issue fee will be scheduled.

The file will be forwarded to the Office of Publications for processing as an expressly abandoned application.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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Karen G. Kaiser
NATIONAL STARCH AND CHEMICAL COMPANY
10 Finderne Avenue
Bridgewater NJ 08807-0500

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of :
LeBlanc, et al. :
Application No. 10/116,368 : ON PETITION
Filed: April 4, 2002 :
Attorney Docket No. 2022.PC :
For: USE OF SOLUBILIZED, ANIONIC POLYURETHANES IN SKIN CARE COMPOSITIONS

This is a decision on the petition, filed February 21, 2007, 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 timely submit a reply within three (3) months of the mailing of the July 28, 2006 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on October 29, 2006. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Applicants have submitted an amendment in reply to the July 28, 2006 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 28, 2006 non-final Office action, and the $1,500.00 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 A.U. 1615 for consideration of the amendment filed on February 21, 2007.

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

Paper No. 5

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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SEP 12 2002

OFFICE OF PETITIONS

In re Application of
Kennedy et al.
Application No. 10/116,392
Filed: April 4, 2002
Attorney Docket No. DES-0006

DECISION DISMISSING PETITION

This is a decision on the petition filed July 8, 2002, requesting entry of Figures 2A, 2B, 16A, 17A, 18A-18C, 21A-21B, 22A-B, and 25C-D as part of the disclosure.

On April 4, 2002, applicants filed the above-identified application. On May 23, 2002, the Office mailed a "Notice of Omitted Item(s)" (Notice), stating that the application had been accorded a filing date of April 4, 2002; however, it appeared that Figures 2A, 2B, 16A, 17A, 18A-18C, 21A-21B, 22A-B, and 25C-D described in the specification appeared to have been omitted.

In response, on July 8, 2002, applicants filed, inter alia, the present petition, the petition fee, and copies of 36 sheets of drawings consisting of Figures 1-37. The petition was accompanied by a copy of applicants' postcard receipt acknowledging receipt of 35 sheets of drawings in the United States Patent and Trademark Office (USPTO) on April 4, 2002. Applicants contend that the noted omitted items were deposited with the USPTO and request that the application, including Figures 2A, 2B, 16A, 17A, 18A-18C, 21A-21B, 22A-B, and 25C-D, be accorded a filing date of April 4, 2002.

Upon review of the record, 47 sheets of drawings, consisting of Figures 1 to 47B are located among the application papers. However, Figures 2A, 2B, 16A, 17A, 18A-18C, 21A-21B, 22A-B, and 25C-D have not been located in the official file. Applicants' postcard receipt serves as evidence that the USPTO received at least 35 sheets of drawings on April 4, 2002. However, the postcard receipt did not itemize with specificity the Figures which were submitted on filing the present application. Accordingly, the postcard receipt cannot serve as prima facie evidence that Figures 2A, 2B, 16A, 17A, 18A-18C, 21A-21B, 22A-B, and 25C-D were present on filing.

It is noted that the specification specifically incorporated by reference the disclosure of Provisional Application No. 60/281,516, filed on April 4, 2001. Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein

> by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the provisional application, the drawings of Figures 2A, 2B, 16A, 17A, 18A-18C, 21A-21B, 22A-B, and 25C-D are not new matter if they were a part of the disclosure of the provisional application. However, as stated above, applicants' postcard receipt does not serve as prima facie evidence that Figures 2A, 2B, 16A, 17A, 18A-18C, 21A-21B, 22A-B, and 25C-D were submitted on filing the above-identified application. Accordingly, the Notice mailed on May 23, 2002, was correct in stating that Figures 2A, 2B, 16A, 17A, 18A-18C, 21A-21B, 22A-B, and 25C-D described in the specification appeared to have been omitted. Therefore, the requirement for the omitted figures was proper and will not be withdrawn.

Accordingly, the petition is dismissed.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 4, 2002, using the application papers filed on that date.

Thereafter, the application will be forwarded to Technology Center 2800 for consideration by the examiner of the petition filed July 8, 2002, as an amendment requesting the entry of new sheets of drawings.

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

Christina Tartera Donnell

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

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Paul D. Greeley, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford CT 06901-2682

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JUL 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Vincent, et al. :
Application No. 10/116,395 : ON PETITION
Filed: April 4, 2002 :
Attorney Docket No. 1700.136USU :
For: WATERGUARD TUBE

This is a decision on the petition under 37 CFR 1.181, filed June 9, 2005 (certificate of mailing date June 7, 2005) to withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely and proper manner to the final Office action mailed on August 25, 2004, which set an extendable three month period for reply. Applicants submitted a one month extension of time and an amendment after final on December 30, 2004 (certificate of mailing date December 27, 2004). The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the January 18, 2005 Advisory action. The Office has no record of receiving further correspondence in application no. 10/116,395. Therefore, the Office considered the application abandoned on December 26, 2004. A Notice of Abandonment was mailed on May 27, 2005.

Petitioners assert that a proper response in the form of a RCE and the balance due for a two month extension of time was timely filed on certificate of mailing date January 25, 2005. A review of the copy of the January 25, 2005 RCE filed with the present petition reveals that petitioners listed the application number as 09/116,395. Therefore, the RCE was not associated with application no. 10/116,395's file.

A review of the contents of application no. 09/116,395 reveals that the January 25, 2005 RCE and extension of time are present.

Even though petitioners cited the wrong application number on the RCE, 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 January 25, 2005 correspondence with this

application file. A cross-referencing of any of the accurate identifiers found on the RCE with Office databases would have revealed the typographical error.

The undersigned will request that the January 25, 2005 RCE and extension of time be removed from the file of application no. 09/116,395 and placed in the file of the above-identified application. Finance records will be adjusted accordingly.

The January 25, 2005 RCE and extension of time were timely filed. Accordingly, the petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn. No petition fee has been or will be charged in connection with this matter.

The application file will be forwarded to the Technology Center AU 3754 for consideration of the RCE filed on January 28, 2005 (certificate of mailing date January 25, 2005).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

DAVID GILDEA
MENLO PATENT AGENCY LLC
435 HERMOSA WAY
MENLO PARK, CA 94025

COPY MAILED

JUN 26 2002

OFFICE OF PETITIONS

In re Application of :
Gregory C. Best :
Application No. 10/116,436 : NOTICE
Filed: April 4, 2002 :
Attorney Docket No. A1253 :

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

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

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

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

This file is being forwarded to Technology Center 2600.

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

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ROBERT E. KLEVE
1103 24TH AVE S
GRAND FORKS, ND 58201

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APR 22 2005

OFFICE OF PETITIONS

In re Application of :
Roland O. Young :
Application No. 10/116,470 : ON PETITION
Filed: April 4, 2002 :
For: DOOR ATTACHING APPARATUS :

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 13, 2004, which set a shortened statutory period for reply of three (3) months. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 14, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

This application became abandoned for failure to file a reply to the final Office action of August 13, 2004, within the period set for response. The proposed response required for consideration of

a petition to revive must be an amendment that *prima facie* places the application in condition for allowance, a Notice of Appeal (and appeal fee)or the filing of a continuing application. Alternatively, the reply requirement may be met by the filing of a submission under 37 CFR 1.129(a) if the above-identified application is eligible for such transitional practice.

Since the amendment submitted on March 21, 2005 does not *prima facie* places the application in condition for allowance, the petition must be dismissed.

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.

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

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

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

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

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

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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ROBERT E. KLEVE
1103 24TH AVE S
GRAND FORKS, ND 58201

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SEP 22 2005

OFFICE OF PETITIONS

In re Application of :
Roland O. Young :
Application No. 10/116,470 : ON PETITION
Filed: April 4, 2002 :
For: DOOR ATTACHING APPARATUS :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee has been previously submitted; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of August 13, 2004 is accepted as having been unintentionally delay.

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

This matter is being referred to Technology Center AU 3651.

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

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AUG 0 1 2007

OFFICE OF PETITIONS

Peter J. Yim
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

In re Application of	:	
Chia-Chee Kuan et al.	:	
Application No. 10/116,473	:	DECISION ON PETITION
Filed: April 4, 2002	:	TO WITHDRAW
Attorney Docket No. 529252000300	:	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, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on March 25, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Blakely Sokoloff Taylor & Zafman**
1279 Oakmead Parkway
Sunnyvale, CA 94085-40400

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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JUL 07 2008

OFFICE OF PETITIONS

In re Application of :
Chia-Chee KUAN, et al :
Application No. 10/116,473 :
Filed: April 4, 2002 :
Attorney Docket No. 529252000300 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 10, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of November 9, 2007 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 10, 2008. *See* MPEP 1214.06.

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

With respect to item 1: The reply submitted on March 10, 2008 in the form of a request to reopen prosecution of the Board decision. See 37 CFR 41.52. The period under 37 CFR 1.304 for seeking court review of the decision by the Board of Patent Appeals and Interferences rendered November 9, 2007, has expired and no action has been taken by petitioner. The proceedings as to the rejected claims are considered terminated, see 37 CFR 1.197(b) and 37 CFR 1.198.

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

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

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

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

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

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

/ Thurman K. Page /
Thurman Page
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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OCT 27 2008

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

In re Application of	:	
Chia-Chee KUAN, et al	:	
Application No. 10/116,473	:	DECISION ON PETITION
Filed: April 4, 2002	:	
Attorney Docket No. 810P003	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 5, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of November 9, 2007 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 10, 2008. *See* MPEP 1214.06.

The renewed petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received.

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

This application is being referred to Technology Center AU 2155 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.

Thurman Page
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DONALD S. DOWDEN
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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MAR 3 0 2005

OFFICE OF PETITIONS

In re Application of :
Ted J. Voissem :
Application No. 10/116,485 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. 6071/66224 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 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 January 3, 2005. Accordingly, this application became abandoned on January 4, 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
United States Patent and Trademark Office

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DLA PIPER RUDNICK GRAY CARY US LLP
153 TOWNSEND STREET
SUITE 800
SAN FRANCISCO, CA 94107-1907

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MAY 19 2005

OFFICE OF PETITIONS

In re Application of :
Mikhail Godkin :
Application No. 10/116,495 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket No. 2102483-906510 :

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-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed August 4, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 5, 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 payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PATENT DEPT
INTUITIVE SURGICAL OPERATIONS, INC
1266 KIFER RD
BUILDING 101
SUNNYVALE CA 94086

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,125,403	:	
Issue Date: October 24, 2006	:	
Application No. 10/116,504	:	ON PETITION
Filed: April 3, 2002	:	
Attorney Docket No. 017516-006430US	:	

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

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

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

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

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

Joan Olszewski
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

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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DEC 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Sheng T. Tsao :
Application No. 10/116,511 : DECISION ON PETITION
Filed: April 5, 2002 : TO WITHDRAW
Attorney Docket No. PA3426US : 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 29, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Carr & Ferrell, LLP has been revoked by the applicant of the patent application on November 3, 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: JAMES M. WU
THELEN, REID & PRIEST, LLP
225 W. SANTA CLARA STREET
SUITE 1200
SAN JOSE, CA 95113

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 19*, 2007

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction for Appl. No. 10/116519 patent no.7186564

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: _____

KATHLEEN KERR BRAGDON, PH.D.
SUPERVISORY PATENT EXAMINER

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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JUL 24 2007

TECHNOLOGY CENTER 2100

Volel Emile
IBM Corporation (VE)
P.O. box 162485
Austin, Texas 78716

In re Application of:
McBrearty et al.
Application No. 10/116,520
Filed: April 04, 2002
For: APPARATUS AND METHOD OF MAINTAINING RELIABLE OFFLINE MIRROR COPIES IN VIRTUAL VOLUME GROUPS

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision in response to the petition under 37 CFR § 1.181 requesting the withdrawal of the holding of abandonment, filed 29 June 2005, in response to a Notice of Abandonment.

The petition is **DENIED**.

This application was held abandoned for applicant's failure to file a proper reply to the Final Office Action mailed 29 April 2004. A Notice of Abandonment was mailed on 16 June 2005.

In support of the petition, petitioner stated that (1) a response to the Final Office Action was filed on 09 June 2004, but an Advisory Action was not received until 06 June 2005; (2) in response to the Status Inquiry Letter of 13 January 2005, applicant's attorney received a telephone call from Ms. Verlene Green on 09 March 2005 requesting that all the papers filed on 09 June 2004 be re-sent to the U.S. Patent and Trademark Office; (3) on 05 May 2005, applicant attorney received a Request under 37 CFR § 1.251 to re-construct the application file; and (4) during the process of converting the application to an electronic version, the application has been placed in an inactive status; thus, applicant's attorney requests that the holding of abandonment be withdrawn since the application became inactive through no fault of applicant or applicant's attorney.

A review of the application record, it reveals that the original Response-after-Final filed 09 June 2004 was not of record and the examiner of record reviewed and considered the copy of the Response-after-Final around 27 May 2005 and issued an Advisory Action on 01 June 2005. In the Advisory Action, the examiner stated that the Response-after-Final has been considered but does not place the application in condition for allowance. It further reveals that applicant did not have an adequate follow-up until the maximum statutory period has been expired after 09 December 2004.

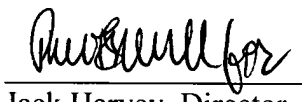
It is pointed out that a proper reply to a final rejection under 37 CFR § 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a

timely filed Notice of Appeal; or (3) a timely Request for Continued Examination (RCE) in compliance with 37 CFR § 1.114. Unfortunately, neither of the above three mentioned conditions are present in this case. It is incumbent upon applicant to properly response to a final Office action. Risk of abandonment is always present when amendments filed after final action without adequate follow-up, e.g. filing a Notice of Appeal, telephoning the Examiner, etc. The latter would not prevent abandonment but would provide applicant with the necessary information to undertake appropriate action. The Office regrets that the original Response-after-Final was lost in mail, but this does not alleviate applicant's responsibility to respond within the statutory period.

For the above stated reasons, the petition is **DENIED,** and the Notice of Abandonment is not vacated. The application remains abandoned in fact.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this Decision. However, it is advised that a petition under 37 C.F.R. § 1.137(b) is more appropriate at the current stage of prosecution.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.



Jack Harvey, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 4

Peter S. Canelias
Attorney at Law
445 Park Avenue, 14th Floor
New York, NY 10022

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AUG 1 5 2002

OFFICE OF PETITIONS

In re Application of
Koek et al.
Application No.10/116,525
Filed: April 4, 2002
Attorney Docket No.1420-22

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed July 15, 2002, under 37 C.F.R. §1.47(a).

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

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

The above-identified application was filed on April 4, 2002, without an executed oath or declaration. Accordingly, on May 15, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of July 15, 2002.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration.

A grantable petition under 37 C.F.R. §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 does not satisfy requirements (1).

As to item (1), Rule 47 applicant has failed to show that the non-signing inventor refused to sign the declaration after having been presented with the application papers. According to the Declaration of Unitra Sobers several phone messages were left with Ms. Ng, inventor Ng's wife. The declaration of Ramcess Jean-Louis states attempts were made to contact inventor Ng via electronic mail. However, rule 47 applicant has

failed to provide any indication that application papers were ever sent to inventor Ng. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d).

Thus on renewed petition, rule 47 applicant must establish the **entire** application package (including specification, claims and drawings) was presented to the non-signing inventor and he refused to sign.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address 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:	Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA 22202

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

Christina Tartera Donnell for

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

cc: Ramsaran Maharajh
Bazerman & Drangel, P.C.
60 East 42nd Street, Suite 820
New York, NY 10165

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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OCT 2 5 2002

OFFICE OF PETITIONS

BAZERMAN & DRANGEL, P.C.
60 EAST 42ND STREET
SUITE 820
NEW YORK, NY 10165

In re Application of
Wei Song Koek, Witold Sames and Mintak Ng
Application No. 10/116,525
Filed: April 4, 2002
Attorney Docket Number: 1420-22

ON RENEWED PETITION

This is in response to the renewed petition under 37 CFR 1.47(a), filed October 3, 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).

This application will be 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of :
Anton Rodi :
Application No. 10/116,534 :
Filed: April 4, 2002 :
Attorney Docket No. AR-R09 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 15, 2009.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on May 15, 2009 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

(1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment;

(2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and

(3) notified the client of any replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with item (1) of the above certifications.

All future communications from the Office will continue to be directed to the above-listed address until properly notified. Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

There is an outstanding Office action mailed November 24, 2008 that requires a reply.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Laurence A. Greenberg
P.O. Box 2580
Hollywood, FL 33020

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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WEIDE & MILLER, LTD.
7251 W. LAKE MEAD BLVD.
SUITE 530
LAS VEGAS, NV 89128

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of :
Charles W. Zimmer et al :
Application No. 10/116,562 : DECISION ON PETITION
Filed: April 4, 2002 : TO MAKE SPECIAL UNDER
Attorney Docket No. PP.FLLV0017P : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR §1.102(d), filed May 2, 2002, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an 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 or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3711 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Anil Sharma	: DECISION ON REQUEST FOR
Patent Number	: 7640326	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/116,621	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/03/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1149** 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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APR 07 2005

OFFICE OF PETITIONS

ANTHONY ENGLAND
PO Box 5307
AUSTIN, TX 78763-5307

In re Application of :
Arndt, et al. : DECISION ON APPLICATION FOR
Application No. 10/116,624 : PATENT TERM ADJUSTMENT
Filed: April 4, 2002 :
Dkt. No.: AUS9-2001-1032-US1 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(b)" filed September 14, 2004.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **DISMISSED**.

Applicants request that the Determination of Patent Term Adjustment be corrected from 439 days, as indicated on the Determination of Patent Term Adjustment mailed August 16, 2004, to an adjustment of 531 days.

An adjustment under 37 CFR 1.702(a)(1) of 439 days was accorded for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. In accordance with 37 CFR 1.703(a)(1), the adjustment began June 5, 2003, the day after the date that is fourteen months after the date on which the application was filed, and ended August 16, 2004, the date the Notice of Allowance was mailed.

Applicants, however, argue that the Notice of Allowance was mailed November 16, 2004, notwithstanding the fact that the instant application for patent term adjustment was filed September 14, 2004. Presumably applicants have confused the issue fee due date (November 16, 2004) indicated within the Notice of Allowance with the actual mail date indicated on the Notice of Allowance (August 16, 2004).

Accordingly, the period of patent term adjustment as of the date of mailing of the Notice of Allowance is 439 days as indicated in the Determination of Patent Term Adjustment mailed August 16, 2004.

The Office hereby acknowledges receipt of the required application fee of $200.00.

The application file is being forwarded to the Publications Division for issuance of a patent.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

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OCT 3 1 2002

OFFICE OF PETITIONS

In re Application of
Saito, et al.
Application No. 10/116,644
Filed: April 3, 2002
Atty Docket No. M1071.1549/P1549

DECISION ON PETITION

This is a decision on the "Petition under 37 C.F.R. § 1.53(e)(2) for Grant of Original Filing Date," filed May 24, 2002, requesting that the above-identified application be accorded a filing date of April 3, 2002.

Application papers in the above-identified application were filed on April 3, 2002. However, on May 15, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," advising applicants that a filing date had not been accorded because the application was deposited without drawings. In reply, applicants timely filed the instant petition, including therewith another copy of the drawings as petitioner maintains they were originally filed on April 3, 2002, and a copy of their return postcard receipt. A review of the application file reveals that the petition was not immediately forwarded to the Office of Petitions for consideration, but rather the application was accorded a filing date of May 23, 2002, presumably based on an Office error in noting the date of deposit in "Express Mail" of the drawings on petition[1].

Further, on August 13, 2002, the Office mailed applicants a "Withdrawal of Previously Sent Notice," advising applicants that the "Notice of Incomplete Nonprovisional Application" was sent in error and including a corrected notice. The "Notice to File Corrected Application Papers" mailed August 13, 2002, advised applicants that the application papers had been accorded a filing date of May 23, 2002. However, the application was considered informal and substitute drawings in compliance with 37 CFR 1.84 were required. A two-month period for reply, with extensions of time obtainable under § 1.136(a), was set. On September 11, 2002, applicants timely filed substitute drawings.

Having considered the above prosecution history and the evidence submitted on petition, it is concluded that petitioner has shown that the above-identified application is entitled to a filing date of April 3, 2002. 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. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on April 3, 2002; 2) it specifically identifies the items being filed, including "17

[1] The petition was filed via deposit in the "Express Mail" service of the USPS on May 24, 2002, not May 23, 2002.

Drawings 17 Sheet(s)/Figs. 1 to 21" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 17 sheets of drawings, were filed on April 3, 2002.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition under § 1.53(e)(2), the petition fee is being refunded to Deposit Account No. 15-0700, as authorized.

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

- further processing **with a filing date of April 3, 2002**, using the application papers received in the Office and presently accorded that date; and the substitute drawings filed September 11, 2002; and
- mailing of a corrected filing receipt.

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.

Christina Tartera Donnell for

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

10116654

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-4-08

TO SPE OF : ART UNIT 3762

SUBJECT : Request for Certificate of Correction on Patent No.: 6827680

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

Please complete this form and return with file within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Please check claims

Thank You For Your Assistance

[signature]
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: ARE 5/8/5

Change to column 22 lines 45 to 48 is correct & approved. Change to column 21 lines 24 to 28 is partially correct and therefore is not approved. The change should read "... status to an indicator threshold..." according to Exmrs Amdt of 9/10/04. The patent was also incorrect & used "indicated". Change to column 21 line 32 is not approved since "the indicator threshold" was introduced in lines 24-28.

ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
SPE

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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RALPH W. SELITTO, JR.
C/O MCCARTER & ENGLISH, LLP
GATEWAY CENTER FOUR
100 MULBERRY STREET
NEWARK, NJ 07102

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AUG 0 4 2004

OFFICE OF PETITIONS

In re Application of
Henry Mattesky
Application No. 10/116,672
Filed: April 3, 2002
Attorney Docket No. MAGL 3.0-368 (B)

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 14, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed applications, and on the petition under 37 CFR 1.78(a)(6) for the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications set forth in the amendment submitted with the instant petition.

The petition is **Granted**.

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

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

---

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

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

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

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

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

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

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

The instant pending nonprovisional application was filed on April 3, 2002, within twelve months of provisional Application No. 60/281,083, which was filed on April 3, 2001, and PCT Application No. PCT/US98/07306 was filed within twelve months of provisional Application No. 60/042,832, filed April 9, 1997, for which priority is claimed. A reference to the prior- filed applications has been included in an amendment to the first sentence of the specification following the title.

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

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

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

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

This application is being referred to Technology Center Art Unit 3652 for processing the amendment submitted May 14, 2004, and for processing and consideration by the examiner of the claim under 35 U.S.C. §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Karen Creasy

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

ATTACHMENT : Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/116684

DATE : 7/26/05

Paper No.: —

TO SPE OF : ART UNIT 2186

SUBJECT : Request for Certificate of Correction on Patent No.: 6 904491 B2

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

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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

☒ **Approved**	All changes apply.	✓ SCE leave, Primary, AU2185 No new matter; no claim change of scope of meaning.
☐ **Approved in Part**	Specify below which changes do not apply.	
☐ **Denied**	State the reasons for denial below.	

Comments:

Approved because change introduce no new matter, no claim change of scope of meaning.

SANJIV SHAH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2185
Art Unit

copy

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

Mail Date: 04/21/2010

Applicant	: Earney Stoutenburg	: DECISION ON REQUEST FOR
Patent Number	: 7600673	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/116,689	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/03/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1241** 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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MAIL Paper No. 9

WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA 02210-2211

OCT 15 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Keith McClelland, et al.
Application No. 10/116,693
Filed: April 3, 2002
For: REMOTE BAGGAGE SCREENING SYSTEM, SOFTWARE AND METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed May 24, 2004.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition show how the technology of the instant application directly contributes to the countering of terrorism.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination. 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.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:03282005

DATE : March 28, 2005

TO SPE OF : ART UNIT 1614

SUBJECT : Request for Certificate of Correction on Patent No.: 6,846,842 B2

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

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

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

With regard to the correction of claim 10, an examiners amendment was made on 8/16/04 to original claim 12, now claim 10, to change the claim dependency from claim 10 to claim, which is now claim 9. Therefore, applicant's certificate of correction is correct.

CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE: Christopher Low **Art Unit** 1614

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,846,842 B2
DATED : January 25, 2005
INVENTOR(S) : Alfred M. Ajami, Carrie A. Sims and Mitchell P. Fink

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title page,
Item [73], Assignees, delete "**Beth Israel Deconess Medical Center**" and insert therefor --Beth Israel Deaconess Medical Center--;

Claim 10, delete "**The method of claim 1**" and insert therefor --The method of claim 9--.

MAILING ADDRESS OF SENDER:
021005
Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road, P.O. Box 9133
Concord, Massachusetts 01742-9133

PATENT NO. 6,846,842 B2

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DIW 10-04

Paper No. 12

RALPH W. SELITTO, JR.
C/O MCCARTER & ENGLISH, LLP
GATEWAY CENTER FOUR
100 MULBERRY STREET
NEWARK NJ 07102

COPY MAILED

OCT 25 2004

OFFICE OF PETITIONS

In re Application of	:
Henry Mattseky	: DECISION ON PETITION
Application No. 10/116,719	: UNDER 37 CFR 1.78(a)(3)
Filed: 3 April, 2002	: AND 37 CFR 1.78(a)(6)
Atty Docket No. MAGL 3.0-368 (A)	:

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

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) 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)(5) 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;[1]

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such

(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 information where there is a question whether the delay was unintentional.

The instant application was filed on 3 April, 2002, and was pending at the time of filing of the instant petition. Additionally, the international application was filed within 12 months of the provisional application to which priority under 35 U.S.C. § 119(e) is now being claimed. An amendment to insert a reference to the first sentence of the specification following the title has been submitted, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant applications to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) and 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*

---

prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

[2] See 35 U.S.C. § 120 and 119(e).

meaning that applicant is entitled to the claim for benefit of the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3231.

The application is being forwarded to Technology Center Art Unit 3677 for appropriate action on the amendment submitted on 21 May, 2004, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (5) for the benefit of the prior-filed provisional application.

Frances Hicks

Frances M. Hicks
Senior Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Encl: Corrected Filing Receipt

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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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OFFICE OF PETITIONS

In re Application of :
Amy K. RUBEINSTEIN :
Application No. 10/116,723 : ON PETITION
Filed: April 4, 2002 :
Attorney Docket No. 26007.0001U2 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed January 5, 2005, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 6, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election and amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of January 5, 2005 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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 of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

The application file is being referred to Technology Center AU 1632 for appropriate action on the concurrently filed election.

Brian Hearn
Petitions Examiner
Office of Petitions

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BALLARD SPAHR ANDREWS & INGERSOLL, LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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In re Application of :
Amy K. Rubeinstein :
Application Number: 10/116723 : DECISION ON PETITION
Filing Date: 04/04/2002 :
Attorney Docket Number: :
26007.0001U2 :

This is a decision on the petition filed on August 6, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on May 6, 2008, for failure to timely file a proper response to the final Office action mailed on February 5, 2008, 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 Abandonment was mailed on August 21, 2008.

---

[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 Director 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 Notice of Appeal filed August 6, 2008, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

This application is being referred to Technology Center Art Unit 1632 for further processing.

---

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl:

ARNALL GOLDEN GREGORY LLP
171 17TH STREET NW
SUITE 2100
ATLANTA, GA 30363

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BEVER, HOFFMAN & HARMS, LLP
1432 CONCANNON BLVD
BUILDING G
LIVERMORE, CA 94550-6006

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OFFICE OF PETITIONS

In re Application of
Jian Wang
Application No. 10/116,728
Filed: April 3, 2002
Attorney Docket No. IDT-1736

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed June 14, 2006.

The application became abandoned for failure to pay the issue fee on or before March 15, 2006. A Notice of Abandonment was mailed on April 21, 2006. In response, on June 14, 2006, the present petition was filed.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Christopher Novak 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.

It is further noted that Mr. Novak has filed a change of correspondence address requesting that the correspondence address be changed to the address shown in instant petition. Since the change of correspondence address is not filed by an attorney of record, it will not be processed. A courtesy copy of this decision is being mailed to petitioner. If Mr. Novak desires to receive future correspondence regarding this application, then the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that the petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Accordingly, the petition is GRANTED.

It is noted that counsel's deposit account was charged an additional $200 for a petition fee. Since no further petition fee is necessary, the $200 fee is being credit to counsel's deposit account.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER NOVAK
6024 SILVER CREEK VALLEY RD.
SAN JOSE, CA 95138

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/14/06

TO SPE OF : ART UNIT **3762**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/116741 6970748

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

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

ANGELA D. SYKES
~~SUPERVISORY PATENT EXAMINER~~
TECHNOLOGY CENTER 3700

SPE

3762

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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March 15, 2004

Sujit B. Kotwal
Townsend and Townsend
Twp Embarcadero Center, Eighth Floor
San Francisco, Ca 94111-3834

In re application of:
Gregory J. Wolff DECISION ON PETITION
Serial No.: 10/116,749
Filed: April 3, 2002
For: TECHNIQUES FOR ARCHIVING AUDION INFORMATION

This is a decision on the petition received by fax on January 23, 2004, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed May 6, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned July 9, 2002. A notice of abandonment was mailed on January 2, 2004.

On January 23, 2004, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney responded to the Notice to File Missing Part by fax on August 26, 2002 with two months of extension.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing part on August 26, 2002.

The petition is hereby GRANTED.

The application has been completed fro release to Technology Center 2681.

The office regrets an inconvenience this may have caused counsel.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OFFICE OF PETITIONS

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

In re Application of
Samuel Sergid Tenenbaum et al
Application No. 10/116,763
Filed: April 03, 2002
Attorney Docket No. 2875/1J89OUS1

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 08, 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 attorneys/agents associated with customer number 07278. 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).

Danny Rainer signed the request on behalf of all attorneys of record.

Danny Rainer and all attorneys/agents associated with application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the first named inventor at the address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: Samuel Sergio Tennenbaum
EDIFICID CENTRO LAFAYETTE
CALLE 24 ESQUINA 21, PISO 104
PUNTA DEL ESTE, URUGUAY

Cc: Danny Rainer
116 West 23rd Street
New York, NY 10011

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
10/116,763	04/03/2002	Samuel Sergio Tenenbaum	4224/1J890US1

CONFIRMATION NO. 1913

OC000000020060869

07278
DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

Date Mailed: 08/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/08/2006.

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

CHARLES SMOOT
OP (571) 272-3299

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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GREGORY L BRADLEY
MEDRAD INC
ONE MEDRAD DRIVE
INDIANOLA PA 15051

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AUG 0 5 2005

OFFICE OF PETITIONS

In re Application of
Richard G. CRITCHLOW et al
Application No. 10/116,765
Filed: April 3, 2002
Attorney Docket No. VI/01-010

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed September 27, 2004 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 28, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an election and amendment; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of September 27, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application file is being referred to Technology Center Art Unit 3737 for appropriate action on the concurrently filed amendment.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: UNIVERSITY OF NEBRASKA MEDICAL CENTER
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

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OCT 2 8 2005

OFFICE OF PETITIONS

In re Application of :
McDonald, et al. :
Application No. 10/116,788 :
Filed: April 4, 2002 :
Attorney Docket No. P04557US01 :

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

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 9, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are granted.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii).

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 prior-filed applications has been included in an amendment to the first sentence of the specification following the title and in an Application Data Sheet, 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 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 not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

It is noted that the amendment and ADS claim a relationship between the PCT application and the provisional applications. It is further noted that, while the amendment indicates that the PCT application is a continuation of the provisional applications, the ADS states that the PCT application is a continuation-in-part. Where there is conflicting data between an amendment and the ADS, the ADS will be used. If petitioner does not wish to state a relationship between the PCT and provisional applications, a substitute amendment or ADS should be submitted. No additional petition fee would be required.

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

This application is being forwarded to Technology Center Art Unit 1653 for appropriate action on the amendment submitted May 9, 2005, including consideration by the examiner of the claim for the benefit of the prior-filed applications.

Frances Hicks

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

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES, CA 90036-5679

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Daniel Yap :
Application No. 10/116,800 :
Filed: April 5, 2002 :
Attorney Docket No. B-4246NP 619576-4 :

This is a decision on the petition, filed August 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 February 12, 2004, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated February 9, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being forwarded to Technology Center AU 2818 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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TAYLOR & AUST, P.C.
142 S. Main St.
P.O. Box 560
Avilla IN 46710

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OFFICE OF PETITIONS

In re Application of :
Soitu et al. :
Application Number: 10/116,807 : DECISION ON PETITION
Patent: 6,919,656 :
Attorney Docket Number: V0I0231.US :
Filing Date: April 5, 2002 :
Issue Date: July 19, 2005 :

This is a decision on the petition to correct the name of the assignee under 37 CFR 1.183 filed on January 30, 2006. The petition is properly treated 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 petition is **Granted**.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 26, 2005

TO SPE OF : ART UNIT 3752 (*David Scherbel*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,915,964

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

Please complete this form and return with file, within **7** days to:
Palm location 7580, Certificates of Correction Branch – South Tower – 9A22
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please see equation change, and proposed amendment, not in IFW contents. Your denial or approval decision is needed below.

sp STacy Powell

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

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

Comments:

David A. Scherbel
Supervisory Patent Examiner
Group 3700

SPE 3752 **Art Unit**

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Paper No. 9

Douglas E. Denninger
TYCO Healthcare Group LP
150 Glover Avenue
Norwalk, CT 06856

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OFFICE OF PETITIONS

In re Application of :
Lap P. Nguyen, et al. :
Application No. 10/116,824 : ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. 2175 CIP 4 :

This is in response to the "Request for Reconsideration of Petition under 37 CFR 1.47(a)", filed February 24, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor, Mathew Mitchell, cannot be located to join in the filing of the above-identified application.

The 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 declaration and the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Brian Hearn, for

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

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United States Patent and Trademark Office
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MAY 1 9 2003

OFFICE OF PETITIONS

Mathew E. Mithcell
9144 45th Avenue – Apt. #5
Seattle, WA 98136

In re Application of
Lap P. Nguyen; Steven P. Buysse; Dale F. Schmaltz; Stephen W. Lukianow; Michael J. Lands; Jenifer S. Kennedy; Kate R. Lawes; Daniel L. Trimberger; Mathew E. Mitchell; Kristin D. Johnson; Gary M. Couture; and Philip M. Tetzlaff
Application No. 10/116,824
Filed: April 5, 2002
For: VESSEL SEALING INSTRUMENT

Dear Mr. Mathew 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 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).

Brian Hearn, for

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

cc: Douglas E. Denninger
TYCO Healthcare Group LLP
150 Glover Avenue
Norwalk, CT 06856

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 12-02

Paper No. 6

DOUGLAS E. DENNINGER, ESQ.
UNITED STATES SURGICAL
A DIVSION OF TYCO HEALTHCARE GROUP, LP
150 GLOVER AVENUE
NORWALK CT 06856

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DEC 19 2002

OFFICE OF PETITIONS

In re Application of Nguyen, Buysse, Schmaltz, Lukianow, Lands, Kenndey, Lawes, Trimberger, Mitchell, Johnson, Couture, and Tetzlaff Application No. 10/116,824 Filed: 5 April, 2002 Attorney Dkt No. 2175CIP4 (203-2931CIP)	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision in response to the "Petition Under 37 CFR 1.47(b)" filed on 18 September, 2002, which is being treated as a petition under 37 CFR 1.47(a).[1]

The petition is **DISMISSED**

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

On 5 April, 2002, the application was filed without an executed

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign, accordingly the petition will be treated as a petition under 37 CFR 1.47(a).

oath or declaration. Accordingly, on 17 May, 2002, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an oath or declaration and a surcharge for its late filing. In response, on 18 September, 2002 (certificate of mailing 13 September, 2002), petitioners filed a two (2) month extension of time, the present petition, fee, and surcharge, and a declaration naming Lap. P. Nguyen, Steven P. Buysse, Dale F. Schmaltz, Stephen Wade Lukianow, Michael J. Lands, Jenifer S. Kennedy, Kate R. Lawes, Daniel L. Trimberger, Mathew E. Mitchell, Kristin D. Johnson, Gary M. Couture, and Philip M. Tetzlaff as joint inventors and signed by all of the joint inventors except Trimberger and Mitchell on behalf of themselves and joint inventors Trimberger and Mitchell.

Petitioners state that joint inventor Trimberger has refused to sign the declaration for the above-identified application and that joint inventor Mitchell could not be reached.

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

In regards to item (1), petitioners has not provided proof that a copy of the application (specification including claims, drawings, if any, and Declaration) was sent or given to non-signing inventor Trimberger for review.[2] The declaration of Mary Jo Milacek states that she forwarded the Oath or Declaration to joint inventor Trimberger, and that he did not return the executed oath or declaration. Petitioners have not shown, however, that a copy of the application-as-filed (specification including claims and drawings, if any) was sent or given to the non-signing inventor, who mailed or sent the application papers, and when the papers were sent or given to the non-signing

[2] MPEP 409.03(d).

inventor. Petitioner should provide a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Additionally, petitioner must provide proof that the non-signing inventor refuses to sign the Declaration after receiving or being presented with a copy of the application as filed.[3] If there is a written refusal, petitioner must provide a copy of the written refusal. If the refusal was made orally to a person, that person must provide details of the refusal in an affidavit or declaration of facts.

With regards to joint inventor Mitchell, petitioners have provided a copy of the envelope sent to joint inventor Mitchell's last known address showing that the envelope was returned as undeliverable by the post office.

In regards to item (2), the declaration contains is defective in that it contains non initialed and/or non-dated alterations.[4] Specifically, there is an uninitialed and/or undated alteration in the signature block for joint inventor Kennedy. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by the inventor to whom the error or deficiency relates is required.[5]

The petition fee required by law of $130.00 will be charged to counsel's deposit account, No. 50-2140, as authorized in the petition for extension of time form filed on 18 September, 2002.

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

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

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

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[3] Id.

[4] See 37 CFR 1.52(c).

[5] 37 CFR 1.67(a)(2).

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Patent No. 7,369,685 :
Issue Date: May 6, 2008 :
Application No. 10/116,839 : DECISION ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. 13375-US :

This is a decision on the Request For Certificate Of Correction Of Applicant's Mistake (35 U.S.C. §255, 37 C.F.R. §1.323), filed on May 28, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The Request is being treated as a Petition Under 37 CFR 3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

The petition under 37 CFR 3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and that such error was a mistake. Accordingly, petitioner requests, in effect, that the Title Pate of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct name of the assignee's name identified thereon from:

"Identix Corporation"

to:

--Identix Incorporated--

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), has been submitted. However, the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was accompanied deposit account authorization to charge any required fees. As such, the fee has been charged as authorized. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with the present Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,379,685.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SENNIGER POWERS LEAVITT & ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

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FEB 24 2003

OFFICE OF PETITIONS

In re Application of :
Tony H. Wheeler et al :
Application No. 10/116,861 : NOTICE
Filed: April 5, 2002 :
Attorney Docket No. SMX 3137.2 :
(2000-021CIP1) :

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 1743.

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

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Paper No. 5

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ROEDAL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

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OFFICE OF PETITIONS

In re Application of :
Tony Wheeler et al :
Application No. 10/116,862 : NOTICE
Filed: April 5, 2002 :
Attorney Docket No. SMX 3129 (2001-082) :

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

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

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

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

This file is being forwarded to Technology Center 1700.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

PATENT COUNSEL
HUNTSMAN POLYURETHANES
286 MANTUA GROVE ROAD
WEST DEPTFORD NJ 08066-1732

COPY MAILED

MAR 0 3 2003

OFFICE OF PETITIONS

In re Application of
Eling, et al.
Application No. 10/116,879
Filed: April 5, 2002
Docket No. EUR 50802/USw
Title: PROCESS FOR MAKING RIGID AND FLEXIBLE POLYURETHANE FOAMS CONTAINING A FIRE-RETARDANT

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed February 20, 2003 (Certificate of Mailing dated February 12, 2003).

The above-identified application was filed on April 5, 2002, without an executed oath or declaration. Accordingly, on May 6, 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.

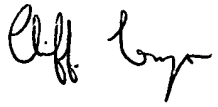
In reply, applicant filed a petition under 37 CFR 1.47 on September 30, 2002 and paid the surcharge for late filing of the declaration. To make timely this petition, applicant purchased a three month extension of time. Accompanying the petition was a declaration signed by inventors Christopher Lindsay and Gordon Seeley, but lacking a signature from inventor Berend Eling. However, this petition was dismissed in a decision mailed on December 12, 2002.

Petitioner has submitted a declaration executed by inventor Eling. The declaration has been found to be in compliance with 37 CFR 1.63.

In view of the **joinder** of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be **moot**. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

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

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



Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

PATENT COUNSEL
HUNTSMAN POLYURETHANES
286 MANTUA GROVE ROAD
WEST DEPTFORD NJ 08066-1732

COPY MAILED

DEC 1 2 2002

OFFICE OF PETITIONS

In re Application of :
Eling, et al. :
Application No. 10/116,879 : DECISION REFUSING STATUS
Filed: April 5, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. EUR 50802/USw :

This is in response to the petition under 37 CFR 1.47(a), filed September 30, 2002 (Certificate of Mailing dated September 24, 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 April 5, 2002, without an executed oath or declaration. Accordingly, on May 6, 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 three month extension of time. Accompanying the petition was a declaration signed by inventors Christopher Lindsay and Gordon Seeley, but lacking a signature from inventor Berend Eling.

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), the Manual of Patent Examining Procedure states:

> Where a refusal by an 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.[1]

In addition, "**all facts** 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."[2]

Here, Rule 47 applicant has supplied **no information** other than that "[r]epeated attempts were made to secure Mr. Eling's signature on a declaration and assignment. Mr. Eling was contacted via the telephone, electronice mail, and DHL Worldwide Express. Despite such attempts, Mr. Eling declined to sign the declaration and assignment."

Furthermore, Rule 47 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. 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."[3]

On renewed petition, it is requested that Rule 47 applicant supply a more thorough statement of facts and/or evidence establishing that Eling has refused to sign the declaration. This can include, but is not limited to: (1) a copy of a cover letter to Eling's last known address, transmitting the application papers and declaration; (2) a copy of any written refusal from Eling; and (3) a statement from the person to whom an oral refusal was made.

The $130 petition fee, $130 surcharge for late filing of the delcaration, and $920 fee for the three month extension of time have been charged to Deposit Account No. 08-3442, as authorized.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

---

[1] MPEP 409.03(d).

[2] Id (emphasis added).

[3] Id.

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

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

Telephone inquiries regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON DC 20005

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of :

PANCHAL, et al. :
Application No. 10/116,904 :
Filed: April 5, 2002 :
Attorney Docket No. 40027-010 :

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 October 9, 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 Adesh Bhargava on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

The application became abandoned for failure to timely respond to the office action mailed August 2, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: KIRAN D. PANCHAL
A-8 BAURAY ENCLAVE CHS
NAHUR RD., MULUND (W)
MUMBAI, INDIA 400 080

cc: MR. STEVE MIDGLEY
GENERAL ELECTRIC INDUSTRIAL SYSTEMS
41 WOODFORD AVENUE
PLAINVILLE, CT 06062

PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,896,933	2005-05-24	10/116,927	2002-04-05	DP-303891

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	/Erik J. Osterrieder/	Date (YYYY-MM-DD)	2009-06-11
Name	Erik J. Osterrieder	Registration Number	48966

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. 6896933
Issue Date: May 24,2005
Application No. 10116927
Filed: April 5,2002
Attorney Docket No. DP-303891

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

This is a decision on the electronic petition, filed June 11,2009 ,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 June 11,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 09 2004

PATENT COUNSEL
UNITED STATES SURGICAL, A DIVISION OF TYCO
TYCO HEALTHCARE GROUP LP
150 GLOVER AVENUE
NORWALK CT 06856

In re Application of	:	
Aaron F. Roane	:	
Application No: 10/116,944	:	Decision on Petition to
Filed: April 5, 2002	:	Withdraw from Issue
Title: Vessel Sealer and Divider	:	(37CFR 1.313(a))

This is in response to the petition applicant filed on May 14, 2004 to withdraw application from issue under 37 CFR 1.313(a).

The application is being withdrawn to permit reopening of prosecution due to unpatentability of one or more claims.

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

The application is being forwarded to the Examiner for action.

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW 08-04

CNH INTELLECTUAL PROPERTY LAW DEPARTMENT
CASE NEW HOLLAND INC.
P.O. BOX 1895
MS 641
NEW HOLLAND PA 17557

COPY MAILED

JUN 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Leupe et al. :
Application No. 10/116,960 : ON PETITION
Filed: 8 April, 2002 :
Attorney Docket No. NA4062-1 :

This is a decision on the petition filed on 10 March, 2004, which is first treated as a petition under 37 CFR 1.137(a), and, in the alternative, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

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

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

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

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

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

This application became abandoned on 27 September, 2003, for failure to file a proper reply to the final Office action mailed on 26 June, 2003, which set a three (3) month shortened statutory period for reply. An amendment after final rejection was filed on 15 July, 2003. However, the examiner determined that the amendment did not place the case in *prima facie* condition for allowance, and an Advisory Action was mailed on 24 July, 2003. A request for reconsideration was filed on 23 January, 2004. However, the request for reconsideration was filed more than six (6) months after the mailing date of the final rejection and was therefore untimely. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioners have filed a Request for Continued Examination (RCE), and have identified the amendment filed on 15 July, 2003, as the required submission.

The petition states that the delay from the due date for response to the final Office Action until the date of filing the petition was unintentional, but also states that "[a]pplicants respectfully request a finding that the delay was unavoidable." As such, the petition will first be treated under 37 CFR 1.137(a). Petitioners further state that delay resulted because applicant's representative was not informed until January, 2004, that the second amendment after final was not received in the USPTO, and was not informed until on or about 26 February, 2004, that the second amendment after final rejection did not place the application in condition for allowance.

Petition Under 37 CFR 1.137(a)

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)).

The petition lacks item (3)

With regards to item (3), the petition lacks the required 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 not sufficient to demonstrate unavoidable delay. In this regard, petitioners should note that a proper response to a final rejection (such as the Office action of 2 July, 2002) must be in the form of a Notice of Appeal, a request for continuing examination (RCE) accompanied by a proper submission, or a continuation application. The filing of an

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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).

amendment placing the application in condition for allowance is permitted under the rules, but entry of such an amendment is not a matter of right. While the Office attempts to promptly respond to an amendment after final, there are those instances where delays do occur, as in the instant application. However, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed. The rule clearly indicates that the mere filing of an amendment does not relieve petitioner of the duty of taking appropriate action to save the application from abandonment. Therefore, whether petitioner received an Advisory Action or not prior to the expiration of the six month statutory period, the only right petitioner was entitled to was that of appealing the final rejection or by filing a request for continued examination or a continuing application. This application became abandoned for failure on the part of petitioner to timely file an appeal, an amendment placing the application in condition for allowance, a request for continued examination, or a continuing application.

Petitioner may not rely upon non-receipt of an amendment-after final rejection or an advisory action to establish that the delay was unavoidable. 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment in the absence of a timely and proper appeal. A delay is not "unavoidable" when an applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.[3]

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.[4] A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to

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[3] See MPEP 711.03(c)(III)(C)(2).

[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).

permit the applicant to take corrective action.[5]

As petitioner has not shown that it exercised the standard of care observed by a reasonable person in the conduct of his or her most important business, the petition will be dismissed.[6]

Petition Under 37 CFR 1.137(b)

The petition under 37 CFR 1.137(b) is granted.

Petitioners have been charged the petition fees required by law under 37 CFR 1.137(a) and 1.137(b). The RCE fee of $770.00 has been charged to counsel's deposit account, No. 14-0780, as authorized in the RCE.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[5]See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

[6]See note 6, supra.

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

STANDLEY & GILCREST LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN OH 43017

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AUG 2 3 [illegible]

OFFICE OF PETITIONS

In re Application of :
Rich, et al. :
Application No. 10/116,966 : DECISION DISMISSING
Filed: April 5, 2002 : PETITION
Attorney Docket No. OSU 1159-135B :

This is a decision on the petition filed June 25, 2002 (certificate of mailing date June 20, 2002), requesting entry of Figures 2 and 3 submitted on June 25, 2002 (certificate of mailing date June 20, 2002).

The petition is **dismissed**.

On April 5, 2002, the application was filed.

On May 20, 2002, the Office of Initial Patent Examination mailed a Notice stating that Figures 2 and 3 were missing.

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.

It is noted that the first page of the application identifies this application as a division of prior application No. 09/692,968 and specifically incorporated by reference the disclosure of the prior application. MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

The pages submitted with the petition will not be entered at this time. The application file will be forwarded to the examiner of record for consideration of the preliminary amendment, filed with the instant petition, that requests entry of missing Figures 2 and 3. The figures will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a). The amendment is not new matter if the substance was a part of the disclosure of the prior application.

The original application papers will include only those application papers present on the date of

[illegible]
petition fee will not be refunded.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 5, 2002, using only the application papers filed on April 5, 2002. Thereafter, the application will be forwarded to the examiner of record for consideration of the preliminary amendment, filed June 25, 2002 (certificate of mailing date June 20, 2000), that requests entry of Figures 2 and 3 from the prior related application..

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

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

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Paper No. 12

Kevin L. Russell
601 SW Second Avenue
Suite 1600
Portland, OR 97204

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OFFICE OF PETITIONS

In re Application of :
M. Ibrahim Sezan, et al. :
Application No. 10/116,977 : ON PETITION
Filed: April 4, 2002 :
Attorney Docket No. KLR 7146.140 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

The application file is being forwarded to Technology Center 2600.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

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

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OFFICE OF PETITIONS

In re Application of
John Mak, Chi Kin
Application No. 10/116,981
Filed: April 5, 2002
Attorney Docket No. 10367/2026

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 3, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 3, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

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

Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 1, 2004 accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3728 for examination in due course.

Any inquiries concerning this decision may 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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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

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SEP 0 3 2002

OFFICE OF PETITIONS

Iandiorio & Teska
260 Bear Hill Road
Waltham MA 02451-1018

In re Application of :
Ralph F. Cohn :
Application No. 10/116,994 : DECISION GRANTING
Filed: April 5, 2002 : PETITION
Attorney Docket No. FM-205J :
Title: NON-CONTACTING MENSURATION SYSTEM :

This is a decision on the "Petition to Accord a Filing Date Pursuant to 37 CFR §1.181", filed July 8, 2002, which is properly treated as a petition under 37 CFR §1.53(b), requesting that Figure 1 be accorded a filing date of April 5, 2002, as part of the original disclosure.

On April 5, 2002, the above-identified application was filed. On May 8, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Corrected Application Papers" (Notice), stating that the application had been accorded a filing date of April 5, 2002, and advising applicant that Figure 1 appeared to have been omitted.

In response, on July 8, 2002, applicants filed the present petition. The petition is further accompanied by a copy of applicants' postcard receipt acknowledging receipt of twenty (20) pages of drawings in the United States Patent and Trademark Office (Office) on April 5, 2002. Applicants request Figure 1 be accorded a filing date of April 5, 2002.

Upon review of the record, Figure 1 has not been located among the application papers. However, the evidence is convincing that the application papers deposited on April 5, 2002, included Figure 1, and the sheet containing this Figure was subsequently

misplaced in the Office. Therefore, the application, including Figure 1 was complete on filing and entitled to a filing date of April 5, 2002.

Accordingly, the petition is **GRANTED**.

The Notice mailed May 8, 2002 was sent in error and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account, as authorized in the petition, as this petition was necessitated by an error on the part of the Office.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 5, 2002, using Figures 2 - 24, which have been located in the file, as well as Figure 1, submitted on July 8, 2002.

Any inquiries related to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Fortkort Grether & Kelton, LLP
9442 N. Capital of Texas Hwy.
Arboretum Plaza One, Suite 500
Austin, TX 78759

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NOV 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Michael C. Stricklin et al. :
Application No. 10/117,003 : DECISION ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. 13330:11 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 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. A Notice of Non-Compliant Amendment (37 CFR 1.121) mailed March 14, 2006 extended the due date of reply to four (4) months from the mail date of the non-final Office action. Accordingly, the application became abandoned on September 17, 2005. A Notice of Abandonment was mailed on April 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

This application is being referred to Technology Center AU 2621 for appropriate action by the Examiner in the normal course of business on the reply received January 13, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Michael Wallace, Jr.
Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08831

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERTS, MLOTKOWSKI & HOBBES
P. O. BOX 10064
MCLEAN VA 22102-8064

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OFFICE OF PETITIONS

In re Application of :
Mads Nikolaj Holten-Andersen, et al. :
Application No. 10/117,030 : ON PETITION
Filed: April 8, 2002 :
Attorney Docket No. 59866.000003 :

This is a decision in response to the communication filed December 11, 2006, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181 (no fee).

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the final Office action mailed August 19, 2005. A Notice of Abandonment was mailed on October 13, 2006. In response, on December 11, 2006, the present petition was filed.

Petitioner asserts that a timely response to the Office action of August 19, 2005 was submitted in the form of a Notice of Appeal, with an appropriate 3-month petition for extension of time, on February 21, 2006. Thereafter, on September 21, 2006, with an appropriate 5-month extension of time, Request for Continued Examination (RCE) was filed. Accordingly, petitioner request that the abandonment be withdrawn.

A review of the written record confirms that a timely Notice of Appeal was filed on February 21, 2006, followed by a timely RCE under 37 CFR 1.114 on September 21, 2006. Consequently, no abandonment existed. The holding of abandonment is hereby withdrawn and the application is restored to pending status.

The Notice of Abandonment mailed October 13, 2006, is **vacated**.

The application is being referred to Technology Center AU 1643 for further processing of the request for continued examination under 37 CFR 1.114 filed September 21, 2006.

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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/24/2007

TO SPE OF : ART UNIT 2800 (2818)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,105,914

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

Please complete this form and return with file *(PFW), within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward *(IFW) to scanning using document code **COCX**.

*ok to enter references as req. in Cof C ?

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

_____

_____

_____

_____

_____

S.L. 2818

SPE **Art Unit**

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,105,914 Page (1) of 4

DATED : September 12, 2006

INVENTOR(S) : Farrar

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the face page, in field (56), under "Foreign Patent Documents", in column 2, line 1, after "10/1993" insert - - H01L 029/46 - -.

On the face page, in field (56), under "Foreign Patent Documents", in column 2, line 3, after "3/1995" insert - - H01L 21/3205 - -.

On the face page, in field (56), under "Foreign Patent Documents", in column 2, line 4, after "8/1995" insert - - H01L 21/3205 - -.

On page 3, in field (56), under "U.S. Patent Documents", in column 1, below line 7, insert

- - 5,937,320	08/1999	Andricacos et al.	
6,103,320	08/2000	Matsumoto et al.	
6,120,641	10/2000	Stevens et al.	156/345.22
6,197,181	03/2001	Chen	205/123
6,208,016	03/2001	Farrar	257/643
6,245,662	06/2001	Naik et al.	
6,277,263	08/2001	Chen	205/182
6,288,442	09/2001	Farrar	257/678
6,290,833	09/2001	Chen	205/182
6,350,678	02/2002	Pramanick et al.	
6,368,966	04/2002	Krishnamoorthy et al.	438/687
6,376,368	04/2002	Jung et al.	
6,486,533	11/2002	Krishnamoorthy et al.	257/586

MAILING ADDRESS OF SENDER:

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

Atty Docket No: 303.673US2

PATENT NO. _____7,105,914_____

No. of additional copies

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,105,914

DATED : September 12, 2006

INVENTOR(S) : Farrar

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

6,508,920	01/2003	Ritzdorf et al .	204/194
6,552,432	04/2003	Farrar	257/751
6,565,729	05/2003	Chen et al.	205/82
6,614,099	09/2003	Farrar	257/643
6,632,345	10/2003	Chen	205/182
6,638,410	10/2003	Chen et al.	205/182
6,664,197	12/2003	Stevens et al.	438/754
6,743,716	06/2004	Farrar	438/652
6,756,298	06/2004	Ahn et al.	438/635 - -.

On page 3, in field (56), under "Other Publications", in column 1, line 2, delete "Multilivel" and insert - - Multilevel - -, therefor.

On page 3, in field (56), under "Other Publications", in column 1, line 39, delete "Depostion" and insert - - Deposition - -, therefor.

On page 3, in field (56), under "Other Publications", in column 2, line 12, delete "Planerization" and insert - - Planarization - -, therefor.

On page 3, in field (56), under "Other Publications", in column 2, line 25, delete "PRoceedings" and insert - - Proceedings - -, therefor.

On page 4, in field (56), under "Other Publications", in column 1, line 28, delete "electrless" and insert - - electroless - -, therefor.

MAILING ADDRESS OF SENDER:

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

PATENT NO. 7,105,914

No. of additional copies

Atty Docket No: 303.673US2

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,105,914

DATED : September 12, 2006

INVENTOR(S) : Farrar

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On page 4, in field (56), under "Other Publications", in column 1, line 28, delete "Sio2" and insert - - SiO_2 - -, therefor.

On page 4, in field (56), under "Other Publications", in column 2, line 1, delete "PLasma" and insert - - Plasma - -, therefor.

On page 4, in field (56), under "Other Publications", in column 2, line 7, delete "Prodceedings" and insert - - Proceedings - -, therefor.

On page 4, in field (56), under "Other Publications", in column 2, line 24, delete "Depostion" and insert - - Deposition - -, therefor.

On page 5, in field (56), under "Other Publications", in column 2, below line 17, insert - - Copy of Provisional Application Number US-60/114,039, Havemann, H. R., et al., December 29, 1998 - -.

On Sheet 46 of 47, in FIG. 5 (Top Right-Above Reference Numeral 530), line 1, above "530" insert - -

- -.

In column 4, line 46, delete "unhoped" and insert - - undoped - -, therefor.

In column 5, line 43, delete "are" and insert - - art - -, therefor.

In column 6, line 30, delete "10^{7}" and insert - - 10^{17} - -, therefor.

In column 7, line 3, delete "$3x10^{6}$" and insert - - 3×10^{16} - -, therefor.

In column 8, line 65, delete "1H" and insert - - 1I - -, therefor.

MAILING ADDRESS OF SENDER:

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

PATENT NO. 7,105,914

No. of additional copies

Atty Docket No: 303.673US2

DEC 26 2006

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,105,914

DATED : September 12, 2006

INVENTOR(S) : Farrar

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 8, line 66, delete "1H" and insert - - 1I - -, therefor.

In column 10, line 43, delete "are" and insert - - art - -, therefor.

In column 15, line 35, delete "are" and insert - - art - -, therefor.

In column 20, line 34, delete "are" and insert - - art - -, therefor.

In column 25, line 13, delete "barrier adhesion" and insert - - barrier/adhesion - -, therefor.

In column 26, lines 32–33, in Claim 4, after "vias" delete "metal lines".

In column 26, line 57, in Claim 7, delete "Si3N4" and insert - - Si_3N_4 - -, therefor.

In column 28, line 18, in Claim 25, after "via" insert - - , - -.

MAILING ADDRESS OF SENDER:

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

Atty Docket No: 303.673US2

PATENT NO. _____7,105,914_____

No. of additional copies ____

DEC 26 2006

OIPE IAP66
DEC 19 2006
PATENT & TRADEMARK OFFICE

please approve the Correction.
Thanks,
DN
09/20/2007

IN UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	7,105,914	Docket No:	303.673US2
Issue Date:	September 12, 2006	Patentee:	Paul A. Farrar
Customer No.:	21186	Confirmation No.:	7361
Title	INTEGRATED CIRCUIT AND SEED LAYERS		

REQUEST FOR CERTIFICATE OF CORRECTION

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

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

Pursuant to 1.20(a), enclosed please find a check in the amount of $100.00.

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

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

Respectfully Submitted

12/20/2006 EHAILE2 00000115 7105914
01 FC:1011 100.00 OP

PAUL A. FARRAR

By his Representatives,

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

Date: 12 December 2006

By: David R. Cochran
Reg. No: 46,632
DRC/cmb

CERTIFICATE UNDER 37 CFR § 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on this 13 day of December 2006

CHRISTOPHER BIBEAU
Name

Signature

DEC 26 2006

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

William A. Drucker
Suite 800
1901 L Street, N.W.
Washington DC 20036-3506

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OFFICE OF PETITIONS

In re Application of
Lancelin et al
Application No. 10/117,053
Filed: April 8, 2002
Title: Method and Device For Analysing A Gas Likely to Contain Particles or Suspended Aerosols

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed December 19, 2006 and supplemented January 23, 2007.

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 application was held abandoned September 10, 2004 for failure to timely reply to the non-final Office Action mailed on June 9, 2004. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed January 25, 2005.

Petitioner contends the Office Action mailed on June 9, 2004 was not received because it was mailed to the incorrect correspondence address. Petitioner states a change of address was filed on May 13, 2002. As evidence petitioner has submitted a copy of the change of address.

A review of the record shows that the Notice was properly mailed to the correspondence address of record. There is no indication that a change of correspondence was filed with the Office in May of 2002. Further the copy of the change of correspondence address does not include a certificate of mailing pursuant to 37 CFR 1.8. 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 lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address does not constitute unavoidable delay. See MPEP 711.03(c). Nor would the failure to promptly change the correspondence allow for withdrawing the holding of abandonment.

In the alternative, petitioner may wish to file 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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of
Lancelin et al
Application No. 10/117,053
Filed: April 8, 2002
Title: Method and Device For Analysing A Gas Likely to Contain Particles or Suspended Aerosols

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed May 3, 2007. This decision also addresses the petition under 37 CFR 1.137(b) filed April 19, 2007.

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

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

This application was held abandoned September 10, 2004 for failure to timely reply to the non-final Office Action mailed on June 9, 2004. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed January 25, 2005.

Petitioner contends the Office Action mailed on June 9, 2004 was not received because it was mailed to the incorrect correspondence address. Petitioner states a change of address was filed on May 13, 2002. As evidence petitioner has submitted a copy of the change of address and a copy of a date stamped postcard receipt. The date stamped postcard serves as prima facie evidence that the change of correspondence was received by the Office.

The change of correspondence address submitted May 13, 2002 has not been located in the Office, however, in view of the evidence submitted, the change of correspondence was submitted prior to the mailing of the non-final Office action.

This application is being forwarded to Art Unit 2877 for re-mailing of the non-final Office Action to the current correspondence address of record. The non-final Office Action extendable period for reply will start upon the re-mailing of the Office Action.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Paper No.

FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY VA 20153

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OFFICE OF PETITIONS

In re Application of :
Won Hyung Park : DECISION ON PETITION
Application No. 10/117,058 :
Filed: April 8, 2002 :
Atty Docket No. P-0252 :

This is a decision on the "PETITION FOR WITHDRAWAL OF HOLDING ABANDONMENT UNDER 37 C.F.R. §1.181(a)" filed August 18, 2006.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed October 25, 2004. The Office action set a three-month shortened statutory period, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension obtained, the above-identified application became abandoned on January 26, 2005. A courtesy Notice of Abandonment was mailed on July 26, 2006.

Applicant asserts that the reply was timely filed on January 25 2005 as shown in the PALM/PAIR printout and the postcard return receipt. In support thereof, applicant submitted a copy of the printout and of the postcard. The petition also included a copy of the reply.

The printout evidence is not persuasive. The image file wrapper of the application is the Official record of the papers received in the application. Papers not present in the IFW are presumed not to have been filed in the application. No reply filed January 25, 2005 as maintained by applicant is present in the

file. Thus, no reply is considered filed January 25, 2005. The PALM printout entry does not overcome this conclusion.

However, 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. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on January 25, 2005; 2) it specifically identifies the items being filed, including "Amendment" and "Amendment Transmittal" with $100 check and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. The evidence shows that a response to the non-final Office action should be considered timely filed on January 25, 2005.

Accordingly, the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2618 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response re-supplied on petition filed August 18, 2006.

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. 6

KLAUS J. BACH & ASSOCIATES
PATENTS AND TRADEMARKS
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

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SEP 15 2004

OFFICE OF PETITIONS

In re Application of :
Barie et al. :
Application No. 10/117,067 : ON PETITION
Filed: April 1, 2002 :
Attorney Docket No. K 192 :

This is a decision in response to the paper filed January 22, 2004, which is being treated as a petition to accord the above-identified application a filing date of April 1, 2002, and as a petition to withdraw termination of proceedings.

The petition for a filing date of April 1, 2002, is **granted**.

The petition to withdraw termination of proceedings is **dismissed as moot**.

The petition requesting a filing date:

On April 1, 2002, the application was filed.

On May 15, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of one or more drawings.

The instant petition alleges that one sheet with two drawing Figures was filed on April 1, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 1 page of drawings.[1]

Upon review of the record, the sheet of drawings, deposited on January 22, 2004, has not been located. However, the evidence is convincing that the application papers deposited on April 1, 2002, included 1 sheet of drawings, and that the sheet was subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of April 1, 2002.

It is noted that a copy of a foreign application was filed on April 1, 2002, which appears to be similar, if not identical, to the missing drawing sheet. However, since the attorney wisely submitted an itemized postcard with the application, reliance on the foreign application's drawing sheet is unnecessary.

---

[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.

Since a drawing was filed with the original application, the Notice mailed May 15, 2002, is vacated.

The petition to withdraw termination of proceedings:

Office records indicate the Office of Initial Patent Examination mailed a Notice withdrawing the termination of proceedings on July 19, 2004. Therefore, the Office of Petitions does not need to address this issue and the petition is dismissed as moot.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 1, 2002, using the application papers filed on April 1, 2002, and using the copy of the 1 sheet of drawings filed on January 22, 2004.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

GIFFORD, KRASS, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
P.O. BOX 7021
TROY, MI 48007-7021

In re Application of :
Bernadino J. PAVONE :
Application No. 10/117,073 : DECISION ON PETITION
Filed: April 8, 2002 : TO WITHDRAW
Attorney Docket No. ICR-14903/08 : 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 8, 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 Mark D. Schneider on behalf of all attorneys of record who are associated with customer No. 25006.

All attorneys/agents associated with the Customer Number 25006 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

There is an outstanding Office action mailed July 3, 2007 that requires a reply by the applicant.

All future communications from the Office will be directed to the inventor 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.

April Wise
Petitions Examiner
Office of Petitions

cc: BERNADINO J. PAVONE
3995 LAKELAND
BLOOMFIELD HILLS, MI 48302

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

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MAR 16 2007

OFFICE OF PETITIONS

In re Application of :
Iwamura et al. :
Application No. 10/117084 :
Filing or 371(c) Date: 04/08/2002 :
Attorney Docket Number: :
216938US2SRDCONT : ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action", filed November 16, 2006. The petition is properly treated under 37 C.F.R. 1.181.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 17, 2005. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on January 18, 2006. A Notice of Abandonment was mailed October 17, 2006.

With the instant petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2616 for re-mailing of the Office communication.

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

Derek L. Woods
Attorney
Office of Petitions

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WILLIAM A DRUCKER
UNIT 208
610 N. WEST STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Lancelin et al. :
Application No. 10/117089 :
Filing or 371(c) Date: 04/08/2002 :
Attorney Docket Number: XPROB0246 : ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment", filed December 13, 2006. The petition is properly treated under 37 C.F.R. § 1.181. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 29, 2005. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on June 30, 2005. A Notice of Abandonment was mailed January 24, 2006.

With the instant petition, Applicant has demonstrated the timely filing of a Change of Correspondence Address.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

It is also noted that Applicant has filed a statement to the effect that he has withdrawn as attorney of record. Applicant is advised that withdrawal requires the approval of the Director. Applicant must petition this Office to withdraw as attorney of record. 37 CFR 1.36 states "A registered patent attorney or patent agent who has been given a power of attorney pursuant to § 1.32(b) may withdraw as attorney or agent of record upon application to and approval by the Director. The applicant or patent owner will be notified of the withdrawal of the registered patent attorney or patent agent." Applicant must file a petition.

The application will be referred to the Technology Center Art Unit 1743 for re-mailing of the Office action and re-setting the period for reply.

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

Derek L. Woods
Attorney
Office of Petitions

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WILLIAM A. DRUCKER
UNIT 208
610 N. WEST STREET
ALEXANDRIA VA 22314

In re Application of :
Henri, LANCELIN, et al :
Application No. 10/117,089 : DECISION ON PETITION
Filed: April 8, 2002 : TO WITHDRAW
Attorney Docket No. XPROB0246 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to William A. Drucker has been revoked by the assignee of the patent application on April 9, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

There is an outstanding Office action mailed April 6, 2007 that requires a reply by the applicant.

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

April Wise
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/117,089	04/08/2002	Henri Lancelin	XPROB0246

CONFIRMATION NO. 3155

OC000000023888742

1444
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

Date Mailed: 05/16/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/09/2007.

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.

Diane Goodwyn

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

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/117,089	04/08/2002	Henri Lancelin	XPROB0246

CONFIRMATION NO. 3155

OC000000023888664

William A. Drucker
UNIT 208
610 N. WEST STREET
ALEXANDRIA, VA 22314

Date Mailed: 05/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/26/2007.

- 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

NEW ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/117,089	04/08/2002	Henri Lancelin	XPROB0246

CONFIRMATION NO. 3155

William A. Drucker
UNIT 208
610 N. WEST STREET
ALEXANDRIA, VA 22314

OC000000023888664

Date Mailed: 05/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/26/2007.

- 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).

Diane Goodwyn

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

1761

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HELLER EHRMAN WHITE & McAULIFFE LLP
1666 K STREET NW, SUITE 300
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of
Dennis Jones
Application No. 10/117,111
Filed: April 8, 2002
Attorney Docket No. 38305-0010

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed April 8, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 14, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 1761 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment, rule 132 declaration, and Information Disclosure Statement.

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

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

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Paper No. 4

Swidler Berlin Shereff Friedman, LLP
3000 K. Street, NW
Box IP
Washington, DC 20007

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OFFICE OF PETITIONS

In re Application of :
Donald H. Osterberg Jr. et al. :
Application No. 10/117,116 : DECISION GRANTING PETITION
Filed: April 8, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 19111.0064 :

This is a decision on the petition, filed May 29, 2003, under 37 CFR 1.137(f), which is being treated 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 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 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 2143 for examination in due course.

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

Frances Hicks
Petitions Examiner

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James C. Wray
Suite 300
1493 Chain Bridge Road
McLean,VA 22101

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OFFICE OF PETITIONS

In re Application of :
Hank C.K. Wuh, et al. :
Application No. 10/117,119 : NOTICE
Filed: April 8, 2002 :
Attorney Docket No. DAILY WELLNESS

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

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

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

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

This file is being referred to Technology Center 1654.

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

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AUG 18 2004

Paper No. 080504

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEYM, SUITE 5100
HOUSTON, TX 77010-3095

In re Application of:
THORKILD HANSEN
Serial No.: 10/117,133
Filed: April 08, 2002
Attorney Docket No.: **HO-P02670US0**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed February 17, 2004..

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

The request meets all the above stated requirements. The request was signed by Eric B. Hall, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed the assignee, at the below address, until otherwise notified by applicant.

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

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

cc: ANTHONY E. CLIFFORD
WITTEN TECHNOLOGIES INC.
10528 DEMOCRACY BLVD.
POTOMAC, MD 20854

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VMWARE/JEFFREY PEARCE
DARRYL SMITH
3401 HILLVIEW AVE.
PALO ALTO CA 94304

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JAN 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Dilip Khandekar et al	:	
Application No. 10/117,143	:	DECISION GRANTING PETITION
Filed: April 5, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. VMware14	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of April 5, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2154.

Karen Creasy
Petitions Examiner
Office of Petitions

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VMware, Inc.
DARRYL SMITH
3401 Hillview Ave.
PALO ALTO, CA 94304

Mail Date: 04/21/2010

Applicant	: Dilip Khandekar	: DECISION ON REQUEST FOR
Patent Number	: 7577722	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/117,143	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1599** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

Randall J. Knuth, P.C.
3510-A Stellhorn Road
Fort Wayne, IN 46815-4631

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JUL 0 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Prabhat Krishnaswamy	:	DECISION NOTING JOINDER OF
Application No. 10/117,154	:	INVENTOR AND PETITION
Filed: April 5, 2002	:	UNDER 37 CFR 1.47(b) MOOT
Attorney Docket No. AF-2	:	

Papers filed on June 20, 2003 in response to a "Decision Refusing Status Under 37 CFR 1.47(b)" mailed April 18, 2003 included a Declaration signed by a previously non-signing inventor, Prabhat Krishnaswamy, in compliance with 37 CFR 1.63.

The petition is dismissed as moot.

In view of the joinder of the inventor, further consideration under § 1.47(b) is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(b).

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

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

Paper No. 5

Randall J. Knuth, P.C.
3510-A Stellhorn Road
Fort Wayne, IN 46815-4631

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APR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Prabhat Krishnaswamy :
Application No. 10/117,154 : ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. AF-2 :

This is in response to the "Petition Under 37 CFR 1.47(b), filed November 25, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should 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(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Applicant lacks item (5) set forth above.

Petitioner has failed to show or provide proof that Alpha Fibre, has sufficient proprietary interest in the subject matter to justify the filing of this application. It is brought to Petitioner's attention that in the absence of an assignment, the USPTO will presume the named inventor to be the owner of the rights, title, and interest to an application. *See* 37 CFR 3.73(a). This presumption may be overcome by proof that the invention has been assigned to the applicant, the inventor has agreed in writing to assign the invention to the applicant, or the applicant, otherwise, has

sufficient proprietary interest in the subject matter to justify the filing of the application. *See* MPEP 409.03(f).

Acceptable proof of proprietary interest would normally include a copy of the employment agreement between nonsigning inventor Prabhat Krishnaswamy and Alpha Fibre, *and* a clear indication that the instant invention was made by Prabhat Krishnaswamy during the employment with Alpha Fibre. A Contract is not an assignment. Also note that an agreement to assign, in the future, inventions not yet developed may vest the promisee with equitable rights in those inventions once made; however, such an agreement does not by itself vest legal title to patents on the inventions in the promisee. See, Arachnid, Inc. v. Merit Industries, Inc. 939 F. 2d 1574, 1580 19 USPQ2d 1513, 1518 (Fed. Cir. 1991).

There is no copy or record of any executed instrument whereby nonsigning inventor, Mr. Krishnaswamy, conveyed his rights in this application to Alpha Fibre or any other party. While Alpha Fibre may yet prove that it has a sufficient proprietary interest to permit filing this application, it is not the "assignee" herein of the rights of the nonsigning inventor, within the meaning of 35 USC 261 and 37 CFR 3.73(b), in the absence of Mr. Krishnaswamy's signature on a conveyance. In order for an instrument to be considered an assignment under the law, the assignor must necessarily execute the conveyance. See 35 USC § 256 n. 136; Ashcraft v. Walworth, C.C. Mass 1872, Holmes 152, Fed. Cas. No. 580. The assignment must be "in writing" in order to be valid or recognized by the USPTO. Standard Computing Scale Co. v. Lincoln Scale Corp., 57 F.2d 334, 11 USPQ 246 (W.D. Pa. 1931). That is, the written conveyance must be duly signed. American Tobacco v. Ascot Tobacco Works, 165 F. 207 (C.C.N.Y. 1908). As noted in University Patens, Inc. v . Kligman, 762 F.Supp. 1212, 1218-19 20 USPQ2d 1401, 1405 (E.D. Pa. 1991):

> Assignment of patent must be in writing, and writing must show clear and unmistakable intent to transfer ownership and **must be executed by the patentee** or by patentee's assigns or legal representatives (emphasis added).

While a valid assignment need not be executed under seal, the assignment must executed. Gottfried v. Miller, 104 U. S. 521, 26 L.Ed. 851, 1882 C.D. 120.

In the alternative, as noted in MPEP 409.03(f), a Rule 47(b) applicant may establish sufficient propriety interest by a legal memorandum signed by an attorney familiar with the law of the relevant jurisdiction stating that a court of competent jurisdiction would by weight of authority in that jurisdiction award the title of the invention to Alpha Fibre, the alleged current assignee herein.

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 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
WWW.USPTO.GOV

Paper No. None

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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APR 22 2005

OFFICE OF PETITIONS

In re Application of :
Charles Pidgeon, Nadege Lagneau, Sonyuan Lin, and Jeffrey A. Ruell :
Application No. 10/117,160 :
Filed: April 5, 2002 :
Attorney Docket No. 32549-70558 :
Title: STRUCTURE/PROPERTIES CORRELATION WITH MEMBRANE AFFINITY PROFILE :

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed October 15, 2002.

The Office regrets the delay in issuing this decision.

On April 5, 2002, the application was deposited, identifying Charles Pidgeon, Nadege Lagneau, Sonyuan Lin, and Jeffrey A. Ruell as joint inventors. On May 9, 2002, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration, a surcharge of $65.00, and substitute drawings were required. This Notice set a two-month period for reply.

1A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

With the instant petition, Petitioner has also submitted the petition fee, the surcharge, and substitute drawings, and a three-month extension of time to make timely this response. Petitioner has also submitted a declaration which has been executed by each of the first three joint inventors.

Petitioner has met requirements (1) – (4) above.

Petitioner has submitted a copy of a letter which was sent to the non-signing joint inventor. The letter confirms that Mr. Ruell received a copy of the application and refused to execute the declaration which was provided to him. It is noted that the letter was signed by Mr. Ruell. It is also noted that Mr. Ruell changed his address on the letter from 500 Broadway, Apt 4157, Malden, MA, 02148" to "165 Cottage Street, Chelsea, MA, 02150."

Regarding the fifth requirement above, the declaration gives the address of the signing joint inventor as the Malden address, which is clearly not the inventor's last known address. Petitioner will need to submit a declaration which contains the correct last-known address for the non-signing joint inventor.

For this reason, the petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[2], hand-delivery[3], or facsimile[4].

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

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the

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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, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

4 (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.

undersigned at (571) 272-3225.

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

cc: Thomas Fitzpatrick
BDC Pharma LLC
5514 South Harper Avenue
Chicago, IL 60637

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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JAMES C. WRAY
SUITE 300
1493 CHAIN BRIDGE ROAD
McLEAN, VA 22101

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SEP 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Aileen Sontag Trant :
Application No. 10/117,169 : NOTICE
Filed: April 8, 2002 :
Attorney Docket No. DAILY WELLNESS :

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

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

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

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

This matter is being referred to Technology Center AU 1654.

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

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JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Shigeru Kawahara, et al. :
Application No. 10/117,205 :
Filed: April 8, 2002 :
Attorney Docket No. 218254US0CONT :

ON PETITION

This is a decision on the petition, filed July 26, 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 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1761 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

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P.O. BOX 2999, STATION D
55 METCALFE STREET
OTTAWA ON K1P5Y-6 CA CANADA

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FEB 0 2 2004

OFFICE OF PETITIONS

Applicant: Trounce et al.
Appl. No.: 10/117,208
Filing Date: April 8, 2002
Title: SYSTEMS AND METHODS FOR HIGH SPEED SERIAL ENCODING AND DECODING FOR DATA AND CONTROL INTERFACES
Attorney Docket No.: 79754-1 /pw
Pub. No.: US 2003/0192006 A1
Pub. Date: October 9, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on November 28, 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

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

NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Stephen A. Canterbury	: DECISION ON REQUEST FOR
Patent Number	: 7637816	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/117,270	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **144** 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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AUG 11 2004

080504

Koestner Bertani L.L.P.
18662 MacArthur Blvd.
Suite 400
Irvine, CA 92612

In re Application of:
Jack Bass et al.
Serial No.: 10/117,271
Filed: April 8, 2003
For: **ICE DETECTION SYSTEM**

DECISION ON PETITION

This is a decision on the petition, filed June 22, 2004, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action of July 8, 2003. A Notice of Abandonment was mailed on June 16, 2004.

Petitioner states that a response was in fact timely filed on October 6, 2003. To support this assertion, petitioner has submitted a copy of an Auto-Reply Facsimile Transmission dated October 6, 2003 that acknowledges receipt in the USPTO of a 14-page transmission, and a copy an Auto-Reply Facsimile Transmission dated May 17, 2004 that acknowledges receipt in the USPTO of a 15-page transmission. It is asserted that the 14-page transmission was a response to the Office action of August 8, 2003 and the 15-page transmission is the re-transmission of the response upon request by the examiner of record.

The response originally filed on October 6, 2003 was not associated with the application file at the time of the mailing of the Notice of Abandonment but has now been located and made of record.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Any inconvenience that this may have caused the applicant is regretted.

The examiner will consider the response submitted October 6, 2003 and an Office action will be issued in due course.

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

Howard N. Goldberg, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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)
7,031,383	2006-04-18	10/117,293	2002-04-05	I018-P10238US

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	/John E. Gunther/	Date (YYYY-MM-DD)	2010-06-21
Name	John E. Gunther	Registration Number	43649

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. 7031383
Issue Date: April 18,2006
Application No. 10117293
Filed: April 5,2002
Attorney Docket No. SCI. 1 (1471.002)

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

This is a decision on the electronic petition, filed June 21,2010 ,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 June 21,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STEVEN H. ARTERBERRY
DORSEY & WHITNEY
1420 FIFTH AVENUE
SUITE 3400
SEATTLE, WA 98101

COPY MAILED

MAY 17 2005

OFFICE OF PETITIONS

In re Application of :
Scott E. Moore :
Application No. 10/117,297 : ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. 500199.06 :

This is a decision on the petition under 37 CFR 1.313 (c)(2), filed May 11, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3723 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

www.uspto.gov

Date : May 17, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Scott E. Moore
Application No. : 10/117,297
Filed : April 5, 2002

The above-identified application has been assigned Patent No. 6,896,589 and an issue date of May 24, 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 24, 2005:

"All reference to Patent No. 6,896,589 to Scott E. Moore of Meridian, ID for METHOD AND APPARATUS FOR PLANARIZING A MICROELECTRONIC SUBSTRATE WITH A TILTED PLANARIZING SURFACE appearing in the Official Gazette of May 24, 2005 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
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

COPY MAILED

JAN 2 3 2003

OFFICE OF PETITIONS

In re Application of:
Charles Pidgeon and
Jeffrey A. Ruell
Application No. 10/117,300
Filed: April 5, 2002
Title of Invention: PREDICTING TAXONOMIC CLASSIFICATION OF DRUG TARGETS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to a Petition Under 37 C.F.R. 1.47(a), filed October 15, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. A three (3) month extension-of-time is required, as such, deposit account 10-0435 has been charged $460.00 as authorized in the instant petition.

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, Jeffrey A. Ruell, refuses to sign the declaration after being presented with the above-identified application and declaration.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jeffrey A. Ruell
165 Cottage Street
Chelsea, Massachusetts 02150

In re Application of:
Charles Pidgeon and
Jeffrey A. Ruell
Application No. 10/117,300
Filed: April 5, 2002
Title of Invention: PREDICTING TAXONOMIC CLASSIFICATION OF DRUG TARGETS

COPY MAILED

JAN 23 2003

OFFICE OF PETITIONS

LETTER

Dear Mr. Ruell:

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
Office of the Deputy Commissioner
for Patent Examination Policy

cc: BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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

William H. Dippert
Reed Smith LLP
375 Park Avenue
New York NY 10152

COPY MAILED

OCT 0 9 2002

OFFICE OF PETITIONS

In re Application of
Malamud
Application No. 10/117,316
Filed: April 5, 2002
Attorney Docket No. 043/02594
For: CT SCANNER FOR
TIME-COHERENT LARGE COVERAGE

: DECISION DISMISSING
: PETITION

This is a decision on the petition entitled, "PETITION UNDER 37 CFR 1.182," filed July 22, 2002 (certificate of mailing date July 15, 2002), requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Nonprovisional Application (Notice), insofar as it alleges that Figure 7 was omitted on filing. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on April 5, 2002. On May 15, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner, *inter alia*, that drawing figure 7 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that drawing figure 7 be accorded a filing date of April 5, 2002 on the basis that 5 sheets of drawing figures, including drawing figure 7, were received in the Patent and Trademark Office (PTO) on April 5, 2002. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing April 5, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 5 sheets of drawings. A review of the application file reveals that only 4 sheets of drawings are present.

The return postcard constitutes *prima facie* evidence that 5 sheets of drawing figures, including drawing figure 7, were filed on April 5, 2002. MPEP 503. Unfortunately, either petitioner did not submit a copy of figure 7 with the instant petition, or it was misplaced in the Office. Therefore, the petition is dismissed.

The application will be retained in the Office of Petitions until petitioner submits a copy of figure 7. At that point, the petition fee will be credited to petitioner's deposit account and the application will be forwarded to the Office of Initial Patent Examination for futher processing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

William H. Dippert
Reed Smith LLP
375 Park Avenue
New York NY 10152

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DEC 0 9 2002

OFFICE OF PETITIONS

In re Application of
Malamud
Application No. 10/117,316
Filed: April 5, 2002
Attorney Docket No. 043/02594
For: CT SCANNER FOR
TIME-COHERENT LARGE COVERAGE

DECISION GRANTING
PETITION

This is a decision on the petition entitled, "Request for Reconsideration," filed October 24, 2002, requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Nonprovisional Application (Notice), insofar as it alleges that Figure 7 was omitted on filing. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on April 5, 2002. On May 15, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner, *inter alia*, that drawing figure 7 described in the specification appeared to have been omitted.

Petitioner requests that drawing figure 7 be accorded a filing date of April 5, 2002 on the basis that 5 sheets of drawing figures, including drawing figure 7, were received in the Patent and Trademark Office (PTO) on April 5, 2002. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing April 5, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 5 sheets of drawings. A review of the application file reveals that only 4 sheets of drawings are present.

The return postcard constitutes *prima facie* evidence that 5 sheets of drawing figures, including drawing figure 7, were filed on April 5, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's authorization, the $130.00 petition fee will be credited to deposit account no. 03-3419.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **April 5, 2002**, using the copy of drawing figure 7 submitted with the instant petition. Office records will be corrected to show that 5 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
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7-30-07 **Paper No.:** _____

TO SPE OF : **Technology Center** 3993 10/117325

SUBJECT : Request for Certificate of Correction on Patent No.: 7156094 B2

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

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

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

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

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

Comments:

The Patent Number "7,196,094" on PTO/SB/44 Form should be changed to --7,156,094--.

_____ 3771
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)
6,704,988	2004-03-16	10/117,336	2002-04-08	7058-15228US01

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark A. Catan/	Date (YYYY-MM-DD)	2008-07-16
Name	Mark A. Catan	Registration Number	38720

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. 6704988
Issue Date: March 16,2004
Application No. 10117336
Filed: April 8,2002
Attorney Docket No. 33947.002

:

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

:

This is a decision on the electronic petition, filed July 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 July 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
David M. Goldenberg	:	
Serial No.: 10/117,342	:	WITHDRAWAL OF ATTORNEY
Filed: April 8, 2002	:	
Attorney Docket No.: 018733-1123	:	

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

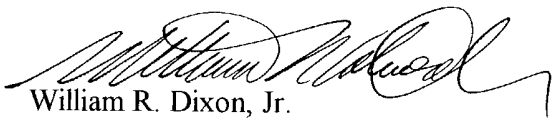
37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC
231 SOMERVILLE ROAD
BEDMINSTER, NJ 07921

COPY MAILED

SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
Timothy Tianyi Chen :
Application No. 10/117,355 : ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. 0264-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3727 for further processing.

Irvin Dingle
Petitions Examiner
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)
7011777	2006-03-14	10117367	2002-04-05	67028-008

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	/Theodore W. Olds/	Date (YYYY-MM-DD)	2010-06-08
Name	Theodore W. Olds	Registration Number	33080

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Commissioner for Patents
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In re Patent No. 7011777
Issue Date: March 14,2006
Application No. 10117367
Filed: April 5,2002
Attorney Docket No. 67028-008

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

This is a decision on the electronic petition, filed June 8,2010 ,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 June 8,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN M. HEASLEY
1614 COVER STREET
IOWA CITY IA 52240

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OFFICE OF PETITIONS

In re Application of :
Heasley :
Application No. 10/117,395 : DECISION ON PETITION
Filed: April 5, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 6656320/74680 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 5, 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 pending nonprovisional application was filed on April 5, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/281,862, which was filed on April 5, 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. 60/281,862 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 Petitions Attorney E. Shirene Willis at (571) 272-3230.

The application is being forwarded to Technology Center AU 3732 for appropriate action on the amendment submitted October 5, 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. 60/281,862.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/117,395	04/05/2002	3732	1057	6656320/74680	23	31	6

CONFIRMATION NO. 6340

JOHN M. HEASLEY
1614 COVER STREET
IOWA CITY, IA 52240

CORRECTED FILING RECEIPT

OC000000018510648

Date Mailed: 04/12/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

John Martin Heasley, Iowa City, IA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/281,862 04/05/2001

Foreign Applications

If Required, Foreign Filing License Granted: 05/16/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/117,395

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Rubber Dams With Operative Inserts Which Isolate Anatomical Structures by Effectively Resisting External Vector Forces of Displacement

Preliminary Class

433

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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CHICAGO, IL 60606-6473

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DEC 22 2003

OFFICE OF PETITIONS

In re Application of :
Mark GRISWOLD :DECISION GRANTING PETITION
Application No. 10/117,396 :UNDER 37 CFR 1.137(b)
Filed: April 5, 2002 :
Attorney Docket No. P02,0107 :

This is a decision on the petition filed September 2, 2003, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed reply to file corrected application papers, as initially required by the Notice of May 14, 2002.

The petition is **granted**.

This application became abandoned by operation of law for failure to file a proper and timely reply to the Notice to File Corrected Application Papers, mailed May 14, 2002, which required the submission of a clean copy of the application papers with proper margins. As a proper and timely reply was not received, this application became abandoned on November 15, 2002 (a fourth month extension of time was obtained pursuant to the provisions of 37 CFR 1.136(a) on November 12, 2002).[1]

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3).

---

[1] Petitioner is advised that the $1,440 extension of time fee paid assessed to petitioner's deposit account on November 15, 2002 was required by statute, and, as such, cannot be waived.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of May 14, 2002 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680.

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Michael David Lee
213 15th Street
Manhattan Beach CA 90266

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MAR 28 2008

OFFICE OF PETITIONS

In re Patent No. 6,641,138 :
Issue Date: November 4, 2003 :
Application No. 10/117,403 : ON PETITION
Filed: April 8, 2002 :
For: ORIGINAL JAKE AND THE PANCAKE GAME :

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

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of **$400.00** as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

This patent expired on November 4, 2007 for failure to pay the 3.5 year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

This petition lacks item (3) above. The required surcharge is $1,640.00. Petitioner has submitted $65.00. Any renewed petition must be accompanied by the remaining fee due: $1,575.00.

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

By Mail: Mail Stop PETITION
Commissioner for Patents

Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Michael David Lee
213 15th Street
Manhattan Beach CA 90266

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APR 29 2009

OFFICE OF PETITIONS

In re Patent No. 6,641,138 :
Issue Date: November 4, 2003 :
Application No. 10/117,403 : ON PETITION
Filed: April 8, 2002 :
For: ORIGINAL JAKE AND THE PANCAKE GAME :

This decision is in response to the written inquiries concerning the above-identified patent received May 15, 2008, May 23, 2008, June 3, 2008, June 5, 2008, June 6, 2008, and June 9, 2008. These inquiries are being treated as a petition under 37 CFR 1.378(e).

The petition is DENIED[1].

BACKGROUND

This patent expired on November 4, 2007 for failure to pay the 3.5 year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

A petition under 37 C.F.R. § 1.378(c) to accept late payment of the maintenance fee was filed January 14, 2008. A decision dismissing the petition under 37 CFR 1.378(c) was mailed March 28, 2008. The petition submitted January 14, 2008 was dismissed for failure to submit the required surcharge of $1,640.00. Petitioner submitted a surcharge in the amount of $65.00. Petitioner was advised that any request for reconsideration must include the required $400.00 petition fee and the required $1,640.00 surcharge.

Petitioner did not include the required petition fee or surcharge with any of the multiple inquiries referenced above.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

[1] This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. *See*, MPEP 1002.02.

In accordance with 35 USC 41(c)(1), "[t]he Director may accept the payment of any maintenance fee required by subsection (b) of this section which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional, or at any time after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable. The Director may require the payment of a surcharge as a condition of accepting payment of any maintenance fee after the six-month grace period. If the Director accepts payment of a maintenance fee after the six-month grace period, the patent shall be considered as not having expired at the end of the grace period."

In accordance with 37 CFR 1.378(c), "[a]ny petition to accept an unintentionally delayed payment of a maintenance fee filed under paragraph (a) of this section must be filed within twenty-four months after the six-month grace period provided in § 1.362(e) and must include: (1) The required maintenance fee set forth in § 1.20 (e) through (g); (2) The surcharge set forth in § 1.20(i)(2); and (3) A statement that the delay in payment of the maintenance fee was unintentional."

FACTS

Petitioner asserts that he was unaware that he was required to pay the maintenance fee. Petitioner further asserts that he did not receive notice from the USPTO that the maintenance fee was due. Petitioner asserts that he was told verbally by USPTO personnel that the surcharge was $65.00. Petitioner further asserts that he was verbally told by USPTO personnel that he did not have to pay the $400.00 petition fee. Petitioner further asserts that he cannot afford to pay the required surcharge of $1,640.00.

OPINION

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable.[2]" Moreover, a late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. 133 because 35 U.S.C. 41(c)(1) uses the identical language, i.e., "unavoidable" delay[3]. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable[4]. Further, decisions on revival are made on a "case-by-case basis, taking all the fact and circumstances into account[5]." Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petition has failed to meet his or her burden of establishing the cause of the unavoidable delay[6].

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[2] 35 U.S.C. 41(c)(1).

[3] See, Ray v. Lehman, 55 F3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)).

[4] See, 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, 514-515 (D.C. Cir. 1912), Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

[5] See, Smith v. Mossinghoff, 671 F.2d 533, 213 USPQ 977, 982 (D.C. Cir. 1982).

[6] See, Haines v. Quigg, 673 F.Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioner asserts he did not know that he had to pay a maintenance fee. In general, the Letters Patent itself discloses the maintenance fee requirement. Moreover, notice of the requirement to submit maintenance fees is well publicized and is provided in 37 CFR 1.362 which states in pertinent part that "(a) Maintenance fees as set forth in §§ 1.20(e) through (g) are required to be paid in all patents based on applications filed on or after December 12, 1980, except as noted in paragraph (b) of this section, to maintain a patent in force beyond 4, 8 and 12 years after the date of grant."

Petitioner asserts non-receipt of a USPTO maintenance fee reminder. Under the statutes and rules, the Office has no duty to notify patentee of the requirement to pay maintenance fees or to notify patentee when the maintenance fee is due. It is solely the responsibility of the patentee to ensure that the maintenance fee is paid timely to prevent expiration of the patent. Failure to receive the reminder notice will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. The Office will attempt to assist patentees through the mailing of a Maintenance Fee Reminder in the grace period. However, the failure to receive a Maintenance Fee Reminder will not relieve the patentee of the obligation to timely pay the appropriate maintenance fee to prevent expiration of the patent, nor will it constitute unavoidable delay if the patentee seeks to reinstate the patent under 37 CFR 1.378(b)[7].

Petitioner is further advised that a delay caused by an patentee's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to reliance upon oral advice from USPTO employees[8].

While the Office is sympathetic to petitioner, who asserts he cannot afford the required surcharge of $1,640.00, the surcharge, nevertheless, is a prerequisite prior to reinstatement of a patent that expired unintentionally.

DECISION

The prior decision dismissing petition under 37 CFR 1.378(c) to accept delayed payment of maintenance fee has been reconsidered. For the reasons set forth herein, specifically, failure to submit the required surcharge and the required petition fee, the delay in payment of the maintenance fee cannot be regarded as unintentional within the meaning of 35 USC 41 and 37 CFR 1.378(c). Accordingly, the offer to pay the delayed maintenance fee without the required surcharge and petition fee will not be accepted and this patent will not be reinstated.

Petitioner may request a refund of the previously submitted maintenance fee of $465.00 by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund. It is noted that the previously submitted surcharge of $65.00 was previously refunded.

---

[7]See, In re Patent No. 4,409,763, 7 USPQ2d 1798 (Comm'r Pat. 1988), aff 'd sub nom. Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff 'd, 937 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992).

[8]See, In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985)

This file is being forwarded to files repository.

Telephone inquiries concerning this matter may be directed to the Petitions Attorney Alesia M. Brown at 571-272-3205.

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : July 16, 2009
Serial No. : 10/117421
Patent No. :6,694,127 B2
Patent Issued :February 17, 2004
Inventor(s) :Eli Yona, et al.
Title :METHOD AND APPARATUS FOR PERFORMING ON-GOING GAIN CALIBRATING IN A COMMUNICATION SYSTEM

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 1.322.

Respecting the alleged errors noted in your request, the columns and line numbers do not match changes you requested.

In view of the foregoing your request is hereby again denied.

Further consideration will be given upon receipt of a correct 1050 form noting the columns and line numbers that are to be corrected.
Request for Reconsideration, which should be directed to Decisions and Certificate of Correction Branch.

Magdalene Talley
For Cecelia B. Newman, Supervisor
Decisions and Certificate
Of Correction Branch
(703)756-1540
FAX 571-270-9942

Qualcomm Incorporated
5775 Morehouse Drive
San Diego, CA 92121

MD/mt

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

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

COPY MAILED

AUG 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Kerobo, et al. :
Application No. 10/117,422 : ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. 937-1498 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 9, 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 10, 2002. A Notice of Abandonment was mailed on January 5, 2004.

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

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

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

OIPE
FEB 22 2005
PATENT & TRADEMARK OFFICE

gaw 2166

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/117,431
Filing Date	04/05/02
First Named Inventor	Mistretta
Art Unit	2166
Examiner Name	Not yet assigned
Attorney Docket Number	STB-001

APPROVED
3/25/05

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record.

☑ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☐ the attorneys/agents associated with Customer Number ☐

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Testa, Hurwitz & Thibeault, LLP is in dissolution. The client has elected to move its patent materials to a new firm.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number: ☐

OR

☑ Firm or Individual Name	Mark J. Mistretta				
Address	StoneBridge PLT, LLC 36 Mill Plain Road, Suite 405				
City	Danbury	State	CT	Zip	06811
Country	USA				
Telephone	(203) 794-1419	Fax	(203) 794-1266		

Signature			
Name	Thomas A. Turano	Registration No.	35,722
Date	February 17, 2005	Telephone No.	(617) 261-3148

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Name	Registration Number	Name	Registration Number
Michael J. Bastian	47,411	John D. Lanza	40,060
Steven M. Bauer	31,481	Kurt W. Lockwood	40,704
Elias C. Behrakis	47,416	Leigh J. Martinson	50,749
Mark L. Beloborodov	50,773	Thomas C. Meyers	36,989
John V. Bianco	36,748	Joseph B. Milstein	42,897
Robert S. Blasi	50,389	David G. Miranda	42,898
Maureen A. Bresnahan	44,559	Ronda P. Moore	44,244
Michael H. Brodowski	41,640	Jeremy Oczek	50,794
Jennifer A. Camacho	43,526	Jamie H. Rose	45,054
Joseph A. Capraro, Jr.	36,471	David L. Schuler	51,190
Christopher H. Chung	50,351	Christopher W. Stamos	35,370
John J. Cotter	38,116	Diana M. Steel	43,153
Robert V. Donahoe	46,667	Joseph P. Sullivan	45,349
Brian A. Fairchild	48,645	Robert J. Tosti	35,393
John V. Forcier	42,545	Thomas A. Turano	35,722
Steven J. Frank	33,497	Christine C. Vito	39,061
Kia L. Freeman	47,577	Patrick R.H. Waller	41,418
Brian M. Gaff	44,691	Daniel A. Wilson	45,508
Duncan A. Greenhalgh	38,678	Gerald E. Worth	45,238
Ira V. Heffan	41,059	Yin P. Zhang	44,372
Danielle L. Herritt	43,670		
Douglas J. Kline	35,574		

☐ Additional registered practitioners named on supplemental Registered Practitioner Information sheet attached hereto.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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JUL 0 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

In re Application of
Sanjay Mani
Application No. 10/117,433
Filed: April 4, 2002

For: METHODS AND SYSTEMS EMPLOYING RECEIVE DIVERSITY IN DISTRIBUTED CELLULAR ANTENNA APPLICATIONS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on June 17, 2005.

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

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

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.

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

Cc: BURT MAGEN
VIERRA MAGEN MARCUS HARMON & DENIRO LLP
685 MARKET STREET
SUITE 540
SAN FRANCISCO, CA 94105-4156

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

MAR 16 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Guy Tiphane, et al.
Application No. 10/117,436
Filed: April 4, 2002
For: HYBRID PRESENTATION CONTROLLER AND COMPUTER INPUT DEVICE

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on September 15, 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.

Attorney requesting withdrawal is not of record.

Accordingly, the request is **DENIED**.

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
(571) 272-2986

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

LAW OFFICE OF DAN SHIFRIN, PC - CIRRUS LOGIC
14081 WEST 59TH AVENUE
ARVADA, CO 80004

In re Application of :
McCall, et al. :
Application No. 10/117,467 : ON PETITION
Filed: April 4, 2002 :
Attorney Docket No.

This is a decision on the "Petition to Revive and Abandoned Application" filed August 2, 2006. The petition will be treated under 37 CFR 1.137(a).

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply to the non-final Office action mailed December 14, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. Extensions of time for reply pursuant to 37 CFR 1.136(a) was available. A proper response was not received within the allowed period, and the application became abandoned on March 15, 2006.

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).

[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 instant petition lacks items (1) and (2).

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]

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[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). Petitioner maintains that the non-final Office action was sent to an incorrect correspondence address.

Applicants are required to provide the Office with prompt notification of a change of address. See MPEP 601.03. Petitioner states that a change of correspondence address was filed in the application on October 20, 2005. Although PAIR shows a transaction entry to this effect, no change of correspondence address document filed on, or about, October 20, 2005, was found in the IFW file wrapper. Petitioner did not provide a copy of the change of correspondence address document, either. In order for this petition to be considered grantable, petitioner must establish that the USPTO was notified of the proper address of record before the date the non-final Office action was mailed. Accordingly, petitioner must provide a copy of the change of correspondence address document as filed on October 20, 2005. In order for the document to be considered *prima facie* evidence of the USPTO's receipt of it, the document will need to have either a certificate of mailing under 37 CFR 1.8 dated prior to December 14, 2005, or have been mailed pursuant to 37 CFR 1.10, or accompanied by and a copy of an Office date-stamped postcard whereby the USPTO acknowledged receipt of the document prior to December 14, 2005.

Petitioner has also failed to requirements of item (2) above which requires a petition fee of $250.00 for a small entity and $500.00 for a large entity. The renewed petition must accompanied by the fee or the petition will be summarily dismissed.

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:

---

[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.

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 matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

PTO/SB/64 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LAW OFFICE OF DAN SHIFRIN, PC - CIRRUS LOGIC
14081 WEST 59TH AVENUE
ARVADA, CO 80004

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OFFICE OF PETITIONS

In re Application of

McCall, et al. :

Application No. 10/117,467

: DECISION ON PETITION

Filed: April 4, 2002

:

Attorney Docket No. 1101-MS

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 14, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on March 15, 2006.

The amendment filed November 10, 2006, is noted.

The application is being forwarded to Technology Center 2600, GAU 2611 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AGFA CORPORATION
LAW & PATENT DEPARTMENT
200 BALLARDVALE STREET
WILMINGTON, MA 01887

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OFFICE OF PETITIONS

In re Application of :
Bryan M. Comeau et al :
Application No. 10/117,475 : ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. XP-1068 :

This is a decision on the petition, filed September 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on 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]

It is noted that petitioner reference related applications in the amendment submitted with the RCE. However, if petitioner intends for priority claim benefits, a petition under 37 CFR 1.78(a) would be in order.

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

---

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

The examiner of Technology Center AU 2861 will consider the request for continued examination under 37 CFR 1.114 submitted on September 16, 2004.

Karen Creasy

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

In re application of	:	
Koelle et al.	:	
Application Serial No. 10/117,476	:	
For: IMMUNOLOGICALLY SIGNIFICANT HERPES SIMPLEX VIRUS ANTIGENS AND METHODS FOR IDENTIFYING AND USING SAME	:	Decision on Request

This is a decision on the request filed September 3, 2004, under 37 CFR 1.48(b)(1), requesting a correction of inventorship to delete Nancy A. Hosken, Patrick McGowan, Steven Filling, and Christine Posavad as an inventors in the above identified application, thus leaving David Koelle, Hongbo Chen, and Lawrence Corey as the joint named inventors herein.

The request is **GRANTED**.

In accordance with petitioner's request, Nancy A. Hosken, Patrick McGowan, Steven Filling, and Christine Posavad will be deleted as inventors from the above identified application file.

James C. Housel
Supervisory Patent Examiner
Biotechnology Group 1600

Attention of Karen S. Canady
Gates & Cooper LLP
Howard Hughes Center
6701 Center Drive West, Suite 1050
Los Angeles , CA
90045

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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JAMES M. STOVER
NCR CORPORATION
1700 SOUTH PATTERSON BLVD, WHQ4
DAYTON, OH 45479

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OFFICE OF PETITIONS

In re Application of :
Luo, et. al : DECISION ON PETITION
Application No. 10/117,503 :
Filed: April 4, 2002 :
Docket No.: 10306 (NCR.0075US) :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 18, 2006

The petition is hereby **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed March 28, 2006. Notice of Abandonment was mailed July 31, 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 Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Patent Publication for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1596
Wilmington, DE 19899

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OFFICE OF PETITIONS

In re Application of :
Glatt et al. : DECISION GRANTING PETITION
Application No. 10/117,505 :
Filed: April 5, 2002 :
Attorney Docket No. KPG-5049US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee and publication fee as required by the Notice of Allowance and Fee(s) Due mailed on February 3, 2004, which set a three (3) month statutory period for reply. Accordingly, this application became abandoned on May 4, 2004.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (703) 305-8497.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Wilmington, DE 19899

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OFFICE OF PETITIONS

In re Application of
Glatt et al.
Application No. 10/117,505
Filed: April 5, 2002
Attorney Docket No. KPG-5049US

ON PETITION

This is in response to the petition under 37 CFR 1.137(b), filed May 27, 2005, to revive the above-identified application and request the status of the application.

On February 3, 2004, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period to pay the issue fee and publication fee. In the absence of the timely payment of the fees, the application became abandoned on May 4, 2004. On June 14, 2004, petitioner filed a petition under 37 CFR 1.137(b), a change of correspondence address, and paid the requisite fees. On July 7, 2004, the Office mailed a decision granting the petition under 37 CFR 1.137(b) and restored the application to pending status. A copy of the decision is enclosed. On August 31, 2004, the application issued as U.S. Patent No. 6,783,913.

In view of the above, the present petition under 1.137(b) is **dismissed** as involving a moot issue.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Decision of July 7, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 14

EXXONMOBIL CHEMICAL COMPANY
P O BOX 2149
BAYTOWN, TX 77522-2149

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OFFICE OF PETITIONS

In re Application of :
Sterte, et al. :
Application No. 10/117,517 : ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. 99B011A/2 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 11, 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 March 24, 2003. Accordingly, this application became abandoned on June 25, 2003. A Notice of Abandonment was mailed on November 3, 2003.

The file is being forwarded to Technology Center 1700 for review of the response filed February 11, 2004.

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

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

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DUANE, MORRIS, LLP
3200 SOUTHWEST FREEWAY
SUITE 3150
HOUSTON, TX 77027

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OFFICE OF PETITIONS

In re Application of :
Doane, et al. :
Application No. 10/117,521 : DECISION ON PETITION
Filed: April 5, 2002 :
For: D5407-154 :

This is a decision on the petition under 37 CFR 1.137(a), filed May 9, 2006, to revive the above-identified application.

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

The application became abandoned for failure to timely submit a proper response to the Notice mailed September 20, 2004. Notice of Abandonment was mailed May 2, 2006.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(a). (See, MPEP 711.03(c) as relates to abandonment attributed to change of correspondence address.) Accordingly, the failure to timely submit a proper reply to the Office communication is accepted as having been unavoidably delayed.

This application is being forwarded to the Technology Center 3600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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1100 GLENDON AVENUE, 14TH FLOOR
LOS ANGELES CA 90024

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OFFICE OF PETITIONS

In re Application of	:	
Bruijn et al.	:	DECISION ON PETITION
Application No. 10/117,533	:	TO WITHDRAW
Filed: April 4, 2002	:	FROM RECORD
Attorney Docket No. 25865.00120	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 6, 2006.

The request is **NOT APPROVED.**

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

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 applicants.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other inquiries should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

ROBERT G. ROSENTHAL, ESQ.
C/O ROSENTHAL & PUTTERMAN
5856 FARRINGDON PLACE
RALEIGH, NC 27609

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)
7008585	2006-03-07	10117536	2002-04-05	67028-007

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	/Theodore W. Olds/	Date (YYYY-MM-DD)	2010-06-08
Name	Theodore W. Olds	Registration Number	33080

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
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In re Patent No. 7008585
Issue Date: March 7,2006
Application No. 10117536
Filed: April 5,2002
Attorney Docket No. 67,028-007

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

This is a decision on the electronic petition, filed June 8,2010 ,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 June 8,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/117,586	04/05/2002	Jae-Gahb Park	DE-1334

David A. Einhorn, Esq.
Anderson Kill & Olick, P.C.
1251 Avenue of the Americas
New York, NY 10020

OIPE JC173 AUG 26 2002 PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 5409

FORMALITIES LETTER

OC000000008489923

Date Mailed: 07/22/2002

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d). Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice <u>MUST</u> be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

DE1334 'US

Box-SEQ

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#5

Applicants:	Jae-Gahb PARK, et al.
Serial No.:	10/117,586
Filed:	April 5, 2002
For:	RET OLIGONUCLEOTIDE MICROCHIP AND METHOD FOR DETECTING HEREDITARY CANCER EMPLOYING SAME

ATTENTION: APPLICATION BRANCH

Asst. Commissioner for Patents
Initial Patent Examination Division
Washington, D.C. 20231

RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Sir:

In response to the above-referenced Notice dated July 22, 2002, applicants submit herewith a second diskette containing a computer readable sequence listing and the following statement:

The contents of the sequence listing information recorded in computer readable format and provided herewith, is identical to the written sequence listing provided herewith and contains no new matter.

Respectfully submitted,

Dated: August 16, 2002

By: _____
Richard B. Klar
Registration No. 31,385

Anderson Kill & Olick
1251 Avenue of the Americas
New York, NY 10020-1182
(212) 278-1000

CERTIFICATE OF MAILING

Express Mail No.: EL 763937509 US
Date of Deposit: August 26, 2002

I hereby certify that the above-identified correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, Box Sequence, P.O. Box 2327

10-21-02 #8 03CO

DE1334

OIPE JC189
OCT 16 2002
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Jae-Gahb PARK, et al.

Serial No.: 10/117,586

Filed: April 5, 2002

For: RET OLIGONUCLEOTIDE MICROCHIP AND METHOD FOR DETECTING HEREDITARY CANCER EMPLOYING SAME

ATTENTION: APPLICATION BRANCH

Asst. Commissioner for Patents
Initial Patent Examination Division
Washington, D.C. 20231

RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Sir:

In response to the above-referenced Notice dated September 23, 2002, applicants submit herewith a third diskette containing a computer readable sequence listing and the following statement:

The contents of the sequence listing information recorded in computer readable format and provided herewith, is identical to the written sequence listing provided herewith and contains no new matter.

Respectfully submitted,

Dated: October 11, 2002

By: [signature]
Richard B. Klar
Registration No. 31,385

Anderson Kill & Olick
1251 Avenue of the Americas
New York, NY 10020-1182
(212) 278-1000

CERTIFICATE OF MAILING

Express Mail No.: EV 089876241 US
Date of Deposit: October 16, 2002

I hereby certify that the above-identified correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, Box Sequence, P.O. Box 2327, Arlington, VA 2202.

[signature]
Audrey de Souza

NYDOCS1-642079.2

OCT 16 2002
PATENT & TRADEMARK OFFICE
JC109

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
10/117,586	04/05/2002	Jae-Gahb Park	DE-1334

CONFIRMATION NO. 5409

David A. Einhorn, Esq.
Anderson Kill & Olick, P.C.
1251 Avenue of the Americas
New York, NY 10020

FORMALITIES LETTER

OC000000008829882

Date Mailed: 09/23/2002

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

BZ

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

WELLS ST. JOHN ROBERTS GREGORY & MATKIN P.S.
601 W. FIRST AVENUE
SUITE 1300
SPOKANE WA 99201-3828

COPY MAILED

NOV 2 1 2002

OFFICE OF PETITIONS

In re Application of
Peter D. DeVries
Application No. 10/017,595
Filed: April 1, 2002
Attorney Docket No. AV1-023
Title: METHOD AND APPARATUS FOR PROVIDING HYDROGEN

DECISION ACCORDING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed June 17, 2002.

The petition under 37 C.F.R. §1.47(a) is **GRANTED**.

The above-identified application was filed on April 1, 2002, identifying Peter D. DeVries as the sole inventor. On May 20, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee), an unexecuted declaration, the surcharge associated with the late filing of an oath or declaration, an employment agreement executed by the non-signing inventor, and a copy of the cover letter sent to the non-signing inventor, which requested that he review the application and sign the declaration.

The petition includes the last known address for each of the non-signing inventors. The documents submitted establish that a copy of the application papers was sent to the non-signing inventor at his last known address, and he has failed to respond.

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

---

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e),
(3) a statement of the last known address of the non-signing inventors;
(4) proof that the non-signing inventor refuses to join in the application or cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

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

After this decision is mailed, the application will be returned to the Office of Initial Patent Examination (OIPE) for completion of pre-examination processing.

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

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

OIPE JC81
JUN 17 2002
PATENT & TRADEMARK OFFICE

COPY OF PAPERS ORIGINALLY FILE

#4

IN THE U.S. PATENT AND TRADEMARK OFFICE

In Re: Application of Peter D. DeVries

For: Method and Apparatus for Providing Hydrogen

Application Serial No.: Yet to be assigned

Filing Date: Filed Herewith

To: Assistant Commissioner for Patents
Washington, D.C. 20231

RECEIVED
JUL 0 9 2002
OFFICE OF PETITIONS

From: George G. Grigel
Wells St. John P.S.
601 W. First Ave., Suite 1300
Spokane, WA 99201
Tel.: (509) 624-4276

STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NON-SIGNING INVENTOR (37 C.F.R. §1.47)

Dear Sir:

I, Peter C. Christensen, Vice President of Avista Laboratories, Inc. a juristic entity having a sufficient proprietary interest in the above identified invention hereby makes this Statement of Facts in support of the submission of the present application pursuant to 37 C.F.R. §1.47.

I hereby declare that I am a person having first hand knowledge of the facts as stated herein and that I am authorized on behalf of Avista Laboratories, Inc. to execute the present Declaration on behalf of or as an agent for Peter D. DeVries, a former employee of Avista Laboratories, Inc.

EV026158006

I hereby state that the subject matter of the present invention was developed in its entirety while Peter D. DeVries was an employee for Avista Laboratories, Inc. I further state that Peter D. DeVries is obligated to assign the present invention by virtue of an Invention and Confidentiality Agreement, a copy of which is attached to the present Statement of Facts.

The last know address of the inventor Peter D. DeVries is P.O. Box 720, 125 N. Crosby Street, Tekoa, WA 99033.

By way of a letter dated March 21, 2002, I forwarded a copy of the application to the inventor at his last known address for review and comment. A copy of this letter is attached. On March 22, 2002, I spoke with Peter D. DeVries in a telephone conversation to discuss and execute the Declaration, and Assignment.

During the telephone conversation on March 22, 2002, Peter D. DeVries told me that he refused to execute the present application, contrary to the provisions of the above mentioned Agreement with Avista Laboratories, Inc. During this conversation, Peter D. DeVries stated that he was refusing to execute the application, unless Avista Laboratories, Inc. first agreed to pay him to review the documents. He estimated that it would take 16 hours to review the application. He requested an hourly compensation of $125.00 per hour for this work.

No provision for payment for the execution of such documents is provided for under the previous Invention and Confidentiality Agreement, a copy of which is attached. Still further, this previous Agreement provides in Paragraph 5, that if Avista Laboratories, Inc. is unable for any reason whatsoever to secure the

signature of the inventor, that the inventor irrevocably designates Avista Laboratories, Inc. as the inventors agent, and attorney-in-fact to act for the inventor and execute any and all necessary documents.

Without payment, Peter D. DeVries indicated that he would not review the application or execute the Declaration.

Filing of this application by Avista Laboratories, Inc. is necessary to preserve the rights of the parties or to prevent irreparable damage by securing a filing date and protecting Avista Laboratories valuable intellectual property rights in this technology. Without this filing, competitors may establish earlier filing dates, which would prejudice Avista Laboratories, Inc.

Respectfully submitted,

Date: 3/28/02

By: _____
Peter C. Christensen
Vice President, Technology/IP

RECEIVED
JUL 3 0 2002
OFFICE OF PETITIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Wall Marjama & Bilinski
101 South Salina Street
Suite 400
Syracuse, NY 13202

COPY MAILED

MAR 2 0 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Roe Hemenway et al.
Application No. 10/117,598
Filed: April 5, 2002
Attorney Docket No. 600-036

This is a decision on the petition under 37 CFR 1.137(b), filed January 6, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 1, 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 2, 2002.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT W. STROZIER
SUITE 930
2925 BRIARPARK DRIVE
HOUSTON, TX 77042

COPY MAILED

NOV 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Stephen Ho :
Application No. 10/117,673 : ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. 02004/01UTL :

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Office communication mailed January 16, 2004. The Office communication sets a 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 February 17, 2004.

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

This matter is being referred to Technology Center AU 3641.

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

Pet. Dec

UNITED STATES PATENT and TRADEMARK OFFICE

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

Mailed: 11/3/04

td

In re application of :
Shuichi Takayama et al. : DECISION ON
Serial No. 10/117,690 : PETITION
Filed: April 5, 2002 :
For: SEPARATION DEVICES AND METHODS FOR SEPARATING PARTICLES

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed March 22, 2004.

On March 22, 2004, a final office action was mailed to applicants. A response to the final rejection was filed on August 25, 2004.

In addition, the instant petition under 37 CFR 1.181 was filed on the same date to formally request the withdrawal of finality of the March 22, 2004 office action.

Applicant's position for the withdrawal of the finality is that no clear issue prior to appeal has been developed between the examiner and applicants.

DECISION

Rule 1.181, Section (f) states:
§ 1.181 Petition to the Commissioner.

(f) Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable

The instant petition was filed five months after the final rejection was mailed. Also, no previous request has been made to withdrawn the finality of the office action. This is clearly not a timely filed petition. In addition, it is noted that Applicants have filed a Request for Continued Examination on September 23, 2004 thereby making the instant petition moot. Accordingly, the instant petition is **DISMISSED.**

JMStone

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

MEDLEN & CARROLL, LLP
Suite 350
101 Howard Street
San Francisco CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent Counsel
Applied Materials, Inc.
P.O. Box 450-A
Santa Clara CA 95052

COPY MAILED

AUG 15 2006

OFFICE OF PETITIONS

In re Application of :
KAM LAW, et al. :
Application No. 10/117,692 : DECISION ON PETITION
Filed: April 5, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. :
006317 DISPLAY/AKT/BG

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 10, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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

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

This pending nonprovisional application was filed on April 5, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/368,402, which was filed on March 26, 2002, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

As authorized, the $1370 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account.

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

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

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

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

Any questions concerning this matter may be directed to Amelia Au at (571) 272-7414.

Frances Hicks
Lead 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

Patent Counsel
Applied Materials, Inc.
P.O. Box 450-A
Santa Clara CA 95052

COPY MAILED

JUN 21 2007

OFFICE OF PETITIONS

In re Application of
LAW, et al
Application No. 10/117,692
Filed: April 5, 2002
Attorney Docket No.
006317 DISPLAY/AKT/BG

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

This is a decision on the RENEWED petition under 38 CFR 1.78(a)(6) filed January 8, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

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

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

Any inquiries concerning this decision may be directed to Amelia Au at (571) 272-7414. 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 2812 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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	TOT CLMS	IND CLMS
10/117,692	04/05/2002	2812	3362	006317 DISPLAY/AKT/BG	110	11

CONFIRMATION NO. 5521

CORRECTED FILING RECEIPT

OC000000024432808

Patent Counsel
Applied Materials, Inc.
P.O. Box 450-A
Santa Clara, CA 95052

Date Mailed: 06/20/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kam Law, Union City, CA;
Quan-Yang Shang, Saratoga, CA;
William Reid Harshbarger, San Jose, CA;
Dan Maydan, Los Altos Hills, CA;

Power of Attorney: The patent practitioners associated with Customer Number **32588**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/368,402 03/26/2002

Foreign Applications

If Required, Foreign Filing License Granted: 05/15/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/117,692

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Deposition of silicon layers for active matrix liquid crystal display (AMLCD) applications

Preliminary Class

438

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/1/09

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 10117692 Patent No.: 7439191 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

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

[redacted]

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

CHARLES D. GARBER
~~SUPERVISORY PATENT EXAMINER~~
AU 2812 4/8/2009

PAGE 1/1 * RCVD AT 4/8/2009 8:32:52 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-4/3 * DNIS:2709990 * CSID:7033050725 * DURATION (mm-ss):04-42

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 11 2003

UR
PAPER NO. 9

In re Application of
Stuart I. Smedley et al.
Serial Number: 10/117,705
Filed: April 04, 2002
For: METHODS OF AND SYSTEM FOR DETERMINING THE REMAINING ENERGY IN A METAL FUEL CELL

DECISION ON PETITION UNDER M.P.E.P. 708.02,V & VIB

This is in response to the petition filed, April 04, 2002 requesting that the above-identified application be granted Special Status under section 708.02 (V), and alternatively under Section 708.02 (VIB) of the MPEP and 37 CFR 1.102(c) (no fee required).

The request for Special Status considered under Section 708.02 (V) is granted because criteria under 37 CFR 1.102(c) has been met.

The request for Special Status under section 708.02 (VI B) is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is GRANTED.

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

Howrey Simon Arnold & White, LLP-OC
301 Ravenswood Avenue
Box 34
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

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

COPY MAILED
MAY 16 2006
OFFICE OF PETITIONS

In re Application of :
Robert A. Ashley :
Application No. 10/117,709 : ON PETITION
Filed: April 5, 2002 :
Attorney Docket No.: 512-53 :

This is a decision on the petition, filed May 15, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1615 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : May 16, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Robert A. Ashley
Application No. : 10/117,709
Filed : April 5, 2002

The above-identified application has been assigned Patent No. 7,048,936 and an issue date of May 23, 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 May 23, 2006:

> "All reference to Patent No. 7,048,936 to ROBERT A. ASHLEY of PENNSYLVANIA for METHODS OF TREATING ACNE appearing in the Official Gazette of May 23, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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MAY 21 2008

OFFICE OF PETITIONS

In re Application of :
CHANG, et al. :
Application No. 10/117,716 :
Filed: April 5, 2002 :
Attorney Docket No. **FUJA 19.630** :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 19, 2006, 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 April 4, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 5, 2006.

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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 2142 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.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KARL R CANNON
PO BOX 1909
SANDY, UT 84091

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MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Brent Larson :
Application No. 10/117,724 : ON PETITION
Filed: April 4, 2002 :
Attorney Docket No. T9544 :

This is a decision on the petition, filed January 3, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $510 extension fees are being credited to counsel's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 3743 for consideration of the amendment filed January 3, 2005.

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
Washington, D.C. 20231
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Paper No. 11

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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APR 29 2003

OFFICE OF PETITIONS

In re Application of
Barnea, et al.
Application No. 10/117,728
Filed: April 4, 2002
Attorney Docket No.
A32874-PCT-USA-A 072393.0

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47, filed March 3, 2003, which is being treated as a petition under 37 CFR 1.47(a).

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

The above-identified application was filed on April 4, 2002, without an executed oath or declaration. Accordingly, on June 18, 2002, applicant was mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration. This Notice set a two-month period for reply.

In reply, applicant filed a declaration and surcharge for its late filing on September 18, 2002. To make timely this reply, applicant purchased a one month extension of time. However, the declaration lacked the signature of inventor Young-Jim Choi. Accordingly, on October 1, 2002, applicant was mailed another Notice to File Missing Parts of Nonprovisional Application. This Notice set a two-month period for applicant to submit the signature of inventor Choi.

On October 29, 2002, applicant filed a petition under 37 CFR 1.47. However, before a decision on the merits was rendered, applicant filed a paper requesting a withdrawal of the 37 CFR 1.47 petition. However, applicant filed the petition again on March 3, 2003, made timely by obtaining a three month extension of time.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance

with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

On petition, attorney Lisa B. Kole included, *inter alia*, a copy of a letter to the last known address of Choi, dated September 24, 2002, transmitting the application papers. According to Kole, no executed declaration from Choi has been received.

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

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

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

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG-JIM CHOI
517 E 8TH ST
SOUTH BOSTON MA 02127

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APR 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Eytan R. Barnea, Paul C. Leavis, :
Young-Jim Choi, and William C. Hatch :
Application No. 10/117,728 : LETTER
Filed: April 4, 2002 :
Title: GESTATIONAL AGENTS WHICH MODULATE CELL PROLIFERATION

Dear Mr. Choi:

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

Lisa B. Kole
Baker & Botts
30 Rockefeller Plaza
New York, NY 10112
(212)408-2628

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

FRANK A. SMITH
GE PLASTICS
ONE PLASTICS AVENUE
PITTSFIELD MA 01201

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FEB 27 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Kazushige Inoue et al
Application No. 10/117,756
Filed: April 5, 2002
Attorney Docket No. 124192-1

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 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]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on February 24, 2004, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Robert L. Pelletier appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Pelletier 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. Pelletier, the petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

---

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

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center Art Unit 1711 for processing of the request for continued examination under 37 CFR 1.114 filed February 24, 2004.

Karen Creasy

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

cc:
CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CONNECTICUT 06002-1353

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

SMITH-HILL AND BEDELL
12670 N W BARNES ROAD
SUITE 104
PORTLAND OR 97229

COPY MAILED

JUL 0 1 2003

OFFICE OF PETITIONS

In re Application of
Mitsuru Igusa and Wei-lun Kao
Application No. 10/117,761
Filed: April 3, 2002
Attorney Docket No.: SILI 2284
Title: IC LAYOUT SYSTEM EMPLOYING A HIERARCHICAL DATABASE

DECISION DISMISSING PETITION UNDER 37 C.F.R. §1.137(F) AS MOOT

This is a decision on the petition filed on June 4, 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 an international application on January 29, 2003.

On January 27, 2003, a Request to Rescind the Nonpublication Request was filed with the Office. The Request further provided notice of an international filing[2]. If an applicant makes a nonpublication request and then rescinds the nonpublication request before or on the date a

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.

2 Although the notice did not contain the date of the international filing, the current petition reveals the date to be the same date upon which the rescission was filed, December 11, 2002.

counterpart application is filed in an eighteen-month publication country, the application will be treated as if the nonpublication request were never made[3].

For the reason set forth above, the petition under 37 C.F.R. §1.137(f) is **DISMISSED AS MOOT**.

As such, no petition fee is necessary. The petition fee has not been charged to petitioner's Deposit Account.

After the mailing of this decision, the application file will be forwarded to Technology Center 2800 for further processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski

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

3 Rescission generally has the effect of voiding, repealing, or annulling a previous action. See Black's Law Dictionary 1308 (7th ed. 1999) (second definition: to make void, to repeal, or annul). Thus, if an applicant makes a nonpublication request under 35 U.S.C. § 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the nonpublication request under 35 U.S.C. § 122(b)(2)(B)(i) will be treated as annulled and the application will be treated as if the nonpublication request had never been made. See http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
www.uspto.go

MCDERMOTT, WILL & EMERY
2049 CENTURY PARK EAST
34TH FLOOR
LOS ANGELES, CA 90067-3208

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OCT 1 0 2002

OFFICE OF PETITIONS

In re Application of :
Vasilis Z. Marmarelis :
Application No. 10/117,763 : NOTICE TO FILE CORRECTED
Filed: April 5, 2002 : APPLICATION PAPERS
For: HIGH-RESOLUTION 3D :
ULTRASONIC TRANSMISSION :
IMAGING

The above-identified application was filed on April 5, 2002. The application papers for the above-identified application appear to be a copy of two applications: "High-Resolution 3D Ultrasonic Transmission Imaging" and "Nonlinear Processing for Mitigation of Diffraction Effects." The application papers for the above-identified application include: two specifications on pages 2-13 and pages 28-36; two sets of claims: claims 1-87 on pages 14-25 and claims 1-62 on pages 37-43, two sets of drawings: 6 sheets for figures 1-10 and another 6 sheets labeled pages 45-50 for figures 1-7; two abstracts on pages 26 and 44; two title pages on pages 1 and 27; and two brief description of drawings on page 5-6 and pages 30-31.

An application number and filing date have been assigned to the above-identified application. The application papers, however, are not in condition for publication. Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The following items and fee are required in response to this notice:

(1) A substitute specification including a single specification (with one brief description of the drawings), and one of each element set forth in 37 CFR 1.77. See 37 CFR 1.121(b)(3). In addition, no drawings should be embedded in the substitute specification (*e.g.*, drawings on pages 45-50 should be deleted). See 37 CFR 1.58(a). If applicant wishes to resubmit the drawings embedded in the specification on pages 45-50 as new drawings in accordance with 37 CFR 1.84, the substitute specification should include a brief description of the new drawings. Any new drawings must be labeled consecutively starting with figure 11 because the application is considered to have 6 sheets of drawings, figures 1-10.

(2) An oath or declaration in compliance with 37 CFR 1.63 and the SURCHARGE set forth in 37 CFR 1.16(e) of $65 for a small entity are required because the declaration filed with the

above-identified application only refers to the specification entitled High-Resolution 3D Ultrasonic Transmission Imaging.

If all required items on this notice are filed within the period set forth above, the total amount owed by applicant as a small entity is $65.

By submitting a copy of two applications as the application papers for the above-identified application, applicants are causing an unreasonable burden on the Office in publishing the application and delays in the processing and examination of the application. The specification of the application does not comply with 37 CFR 1.77 in that two versions of each section were included. If the application papers that were originally filed were to be published, the resulting document would be very confusing as it would appear that the Office made a mistake in publishing two different applications as a single application.

The above-identified application is considered to have 62 claims (the claims on pages 37-43). The claims on pages 14-25 will not be considered as claims for the above-identified application because they appear in the middle of the specification and are not in compliance with 37 CFR 1.75. If applicant wishes to have the claims on pages 14-25 be considered, applicant should file an amendment adding these claims with the first claim numbered as claim 63. See 37 CFR 1.121(c)(2). In addition, the substitute specification filed in response to this notice should not include any claims in the middle of the specification.

The receipt of the change of correspondence address is acknowledged.

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

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

or

U.S. Patent and Trademark Office
P.O. Box 2327
Box DAC
Arlington, VA 22202

By facsimile: (703) 308-6916
Attention: Office of Petitions

By hand-carry: Attention: Office of Petitions
Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

The application will be retained in the Office of Petitions to await a response to this Notice.

Telephone inquiries regarding this communication should be directed to Joni Chang at (703) 308-3858.

Eugenia Jones
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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McDERMOTT WILL & EMERY (LOS ANGELES OFFICE)
2049 CENTURY PARK EAST
34TH FLOOR
LOS ANGELES, CA 90067-3208

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DEC 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Vasilis Z. Marmarelis	:	
Application No. 10/117,763	:	DECISION GRANTING PETITION
Filed: April 5, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 064693-0023	:	

This is a decision on the petition, filed December 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 June 3, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3737 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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

AGFA CORPORATION
LAW & PATENT DEPARTMENT
200 BALLARDVALE STREET
WILMINGTON MA 01887

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SEP 2 0 2004

OFFICE OF PETITIONS

In re Patent No. 6,650,353	:	ON PETITION
Issued: November 18, 2003	:	
Application No. 10/117,775	:	
Filed: April 5, 2002	:	
Attorney Docket No. XP-1036	:	

This is a decision on the petition, filed September 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot.**

This application issued into Patent No. 6,650,353 on November 18, 2003. In view thereof, the petition is dismissed as moot.

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).

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

After receipt of the file in the Office of petitions, the patented file will be forwarded to Files Repository.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 9

STITES & HARBISON PLLC
424 CHURCH STREET
SUITE 1800
NASHVILLE, TN 37219-2376

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SEP 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Wayne Elsey :
Application No. 10/117,796 : ON PETITION
Filed: April 1, 2002 :
Attorney Docket No. 12910N/050254 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 29, 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 application became abandoned on April 30, 2004. The notice of abandonment was mailed October 7, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the $510 extension of time submitted on August 2, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The Revocation of Power of Attorney and Change of Correspondence Address have been accepted and recorded.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed August 2, 2005 is accepted as having been unintentionally delayed.

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

The application file is being forwarded to Technology Center 3700, Art Unit 3728 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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P.O. BOX 640640
SAN JOSE CA 95164-0640

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OFFICE OF PETITIONS

In re Application of Zhang et al. :
Application No. 10/117,801 : Decision on Petition
Filing Date: April 4, 2002 :
Attorney Docket No. CISCO-5894 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 23, 2007, to revive the above-identified application.

The petition is **granted**.

Facts:

A final Office action was mailed April 6, 2007. The Office action set a shortened statutory period for reply of three (3) months.

A reply and request for a two month extension of time were filed September 4, 2007.

The September 4, 2007 reply failed to place the application in condition for allowance.

A second reply was filed October 10, 2007. However, the last day an amendment could have been filed with a three-month extension of time was October 9, 2007.[1] Therefore, the October 10, 2007 reply was untimely.

Since only a two-month extension of time was obtained to reply to the Final Office action, the application became abandoned on September 7, 2007.

A Notice of Abandonment was mailed November 8, 2007.

The instant petition was filed November 23, 2007.

Petitioner has submitted the petition fee of $1,540.

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.

[1] October 6 was a Saturday, October 7 was a Sunday, and October 8 was a Federal Holiday.

Petitioner has submitted a reply to the final Office action in the form of a Request for Continued Examination.

Discussion:

A review of the record indicates 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 2616 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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1263 Emory Street
San Jose, CA 95126

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OFFICE OF PETITIONS

In re Application of :
Stephen R. Wurzburger :
Application No. 10/117,877 : ON PETITION
Filed: May 30, 2002 :
Attorney Docket No. RSSW15 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 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.

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 (2).

Petitioner tendered a check in the amount of $685 for the fee for the instant petition. However, the petition fee increased to $750, effective December 8, 2004. Since the petition was received on this date and was not filed via certificate of mailing under the provisions of 37 CFR 1.8 prior to this date, petitioner is required to submit the current fee. In view thereof, the balance of $65 must be received in order to revive this application.

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:

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

The centralized facsimile number is **(703) 872-9306.**

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

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

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1263 Emory Street
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OFFICE OF PETITIONS

In re Application of :
Stephen R. Wurzburger :
Application No. 10/117,877 : ON PETITION
Filed: May 30, 2002 :
Attorney Docket No. RSSW15 :

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

The petition is **GRANTED**.

A Notice of Non-Compliant Amendment was mailed to applicant on March 12, 2004, which set a one (1) 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 April 13, 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 1700.

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

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Robert Samuel Smith
1263 EMORY ST.
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OFFICE OF PETITIONS

In re Application of :
Stephen R. Wurzburger :
Application No. 10/117,877 : DECISION ON PETITION
Filing Date: May 30, 2002 : UNDER 37 C.F.R. § 1.137(B)
Attorney Docket No.: RSSW15 :
Title: HYDRONIUM-OXYANION ENERGY :
CELL :

This is a decision on the petition under 37 C.F.R §1.137(b)[1], filed June 6, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed May 25, 2005, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[2]. Accordingly, the above-identified application became abandoned on August 26, 2005. A Notice of Abandonment was mailed on October 25, 2005.

With the present petition, Petitioner has submitted the petition fee, the issue fee, and the proper statement of unintentional delay. It is noted that a terminal disclaimer is not necessary.

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

2 See MPEP §710.02(e).

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**. The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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

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A PROFESSIONAL ASSOCIATION
P O BOX 142950
GAINESVILLE, FL 32614-2950

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OFFICE OF PETITIONS

In re Application of :
Lydie Bougueleret :
Application No. 10/117,894 : DECISION ON PETITION
Filed: June 20, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 49.US3.DIV :

This is a decision on the petition under 37 CFR 1.78(a)(3) which is being treated solely as a petition under 37 CFR § 1.78(a)(6), filed August 26, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

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

The instant pending nonprovisional application was filed on June 20, 2002 and intermediate Application No. PCT/IB89/01702 was filed within twelve months of the filing date of prior-filed provisional Application No. 60/103,729, which was filed on October 9, 1998, 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. 60/103,729 is granted.

As to the claim for priority to PCT Application No. PCT/IB89/01702, petitioner's attention is directed to MPEP 1893.03(c), page 1800-149, which states that a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). In this regard, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate.

Additionally, petitioner should note that amendments to the application must comply with the provisions of 37 CFR 1.121.

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

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

Any questions concerning this decision on petition may be directed to Retta Williams at (571) 272-3229. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The matter is being referred to Technology Center AU 1634 for appropriate action on the amendment submitted August 26, 2004, 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. 60/103,729.

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

Attachment: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of :
Lydie Bougueleret :
Application No. 10/117,894 : DECISION ON PETITION
Filed: June 20, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 49.US3.DIV :

CORRECTED DECISION

This is a decision on the petition under 37 CFR 1.78(a)(3) which is being treated solely as a petition under 37 CFR § 1.78(a)(6), filed August 26, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

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

The instant pending nonprovisional application was filed on June 20, 2002 and intermediate Application No. PCT/IB99/01702 was filed within twelve months of the filing date of prior-filed provisional Application No. 60/103,729, which was filed on October 9, 1998, 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. 60/103,729 is granted.

As to the claim for priority to PCT Application No. PCT/IB99/01702, petitioner's attention is directed to MPEP 1893.03(c), page 1800-149, which states that a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). In this regard, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate.

Additionally, petitioner should note that amendments to the application must comply with the provisions of 37 CFR 1.121.

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

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

Any questions concerning this decision on petition may be directed to Retta Williams at (571) 272-3229. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The matter is being referred to Technology Center AU 1634 for appropriate action on the amendment submitted August 26, 2004, 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. 60/103,729.

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

Attachment: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of	:	
Larry Frank Brickman	:	
Application No. 10/117,905	:	DECISION DISMISSING
Filed: April 8, 2002	:	PETITION
Attorney Docket No. A01220	:	

This is a decision on the petition under 37 CFR 1.137(a), filed January 10, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the Notice of Allowance and Fee(s) Due mailed on October 5, 2004, which set a three-month statutory period to respond. Accordingly, this application became abandoned on January 6, 2005. The present petition precedes the mailing of a Notice of Abandonment.

In the present petition, petitioner asserts that the delay in paying the issue fee and the publication fee was unavoidable because the attorney of record was out of the office due to an extended illness. Petitioner states that the petition and the Issue Fee Transmittal were promptly filed as soon as the attorney returned for work.

DISCUSSION

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 item (3).

The showing of record before the Office is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a)(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.) 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 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). Decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

The attorney of record failed to demonstrate that his illness was of such nature and degree as to render him unable to conduct business (*e.g.* correspond with the USPTO) from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a). The attorney of record did not submit any information regarding the duration of his extended medical illness, a statement from his treating physician, or any medical records concerning his condition.

Additionally, petitioner has failed to show what steps the attorney of record took during his illness to seek the assistance of another member of the law firm to timely file the reply to the Notice of Allowance.

Petitioner has not provided a sufficient 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 notes that an applicant may delay action until the end of the time period for reply. However, in doing so, the applicant must assume the risk attendant to such delay. See Ex parte Warren, 1901 Dec. Comm'r Pat. 137 (Comm'r Pat. 1901).

CONCLUSION

The showing required under 37 CFR 1.137(a) is exacting, and petitioner has not met that showing.

Accordingly, the petition must be **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)" or "Petition under 37 CFR 1.137(b)," as appropriate. Extensions of time are permitted under 37 CFR 1.136(a).

Alternative *Venue*

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, applicants are not precluded from seeking relief by filing a petition under 37 CFR 1.137(b) on the basis of unintentional delay. 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 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; and (4) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(d).

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Larry Frank Brickman	:	
Application No. 10/117,905	:	DECISION GRANTING
Filed: April 8, 2002	:	PETITION
Attorney Docket No. A01220	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the Notice of Allowance and Fee(s) Due mailed on October 5, 2004, which set a three-month statutory period to respond. Accordingly, this application became abandoned on January 6, 2005. The present petition precedes the mailing of a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of payment of the issue and publication fees, authorized the payment of the petition fee, and made the proper statement of unintentional delay.

The $1,500.00 petition fee will be charged to Deposit Account No. 18-1850, as authorized.

The matter is being referred to the Office of Patent Publication.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

Sidney Persley, Esq.
Sun Chemical Corporation
222 Bridge Plaza South
Fort Lee NJ 07024

In re Application of
Christian John Lee
Application No. 10/117,910
Filed: April 8, 2002
Attorney Docket No. C-389
Title: SELF-DAMPENING INK COMPOSITIONS AND METHOD FOR LITHOGRAPHIC PRINTING USING THE SAME

DECISION GRANTING
PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed March 1, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed December 2, 2003, which set a shortened statutory period for reply of three (3) months. On May 6, 2004, an amendment was received along with a two-month extension of time (the amendment contained a certificate of mailing dated May 3, 2004). On May 19, 2004, an advisory action was mailed, indicating that the amendment failed the place the application in condition for allowance. On June 1, 2004, a Notice of Appeal was filed, along with a three-month extension of time. Petitioner failed to submit an Appeal Brief, and no further extensions of time were received. Accordingly, the above-identified application became abandoned on June 3, 2004. A notice of abandonment was mailed February 10, 2005.

With the instant petition, petitioner has filed the petition fee, a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 as well as the associated fee, and has made the

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

proper statement of unintentional delay. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The amendment, previously filed on May 6, 2004, shall serve as the required submission.

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

After this decision is mailed, the application will be forwarded to Technology Center 1700 for consideration of the submission under 37 C.F.R. §1.114, the previously filed amendment.

Petitioner has further included a three-month extension of time with this petition. An extension of time under 37 C.F.R. §1.136 must be filed prior to the expiration of the maximum extendable period for reply[2]. Accordingly, since the $1020 extension of time submitted with the petition on March 1, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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 delay3. 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.

---

2 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).
3 See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

cc: MEILMAN, EDWARD
Dickstein Shapiro Morin and Oshinsky
1177 Avenue of the Americas 41st Floor
New York, NY 10036

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAILED
FROM DIRECTORS OFFICE

OCT 07 2004

TECHNOLOGY CENTER 3600

Bucknam and Archer
1077 Northern Boulevard
Roslyn, NY 11576

In re Application of :
Corinne Gauthier et al. :
Application No. 10/117,915 :
Filed: April 8, 2002 :
For: SOLID COMPOSITIONS GENERATING :
HYDROGEN BY COMBUSTION, COMPRISING AN ALKALI METAL BOROHYDRIDE AND AN AMMONIUM SALT

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdrawal the holding of abandonment filed on August 6, 2004.

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

☒ Postcard receipt being dated January 20, 2004.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

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

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

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

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

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

KJD/vdb: 9/21/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

George F. Helfrich
162 Shasta Drive
Newport News, VA 23608

COPY MAILED

AUG 1 9 2002

OFFICE OF PETITIONS

In re Application of :
Eanes :
Application No. 10/117,968 : DECISION ON
Filed: June 28, 2002 : PETITION
For: SYSTEM FOR ONTOLOGY-BASED :
CREATION OF SOFTWARE AGENTS :
FROM REUSABLE COMPONENTS :

This is a decision on the petition filed June 28, 2002, to accord the above-identified application a filing date of April 6, 2002.

The petition is **dismissed**.

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

On April 6, 2002, the application was deposited.

On May 1, 2002, the Office of Initial Patent Examination mailed a Notice stating that at least one claim was not present and that a filing date had not been accorded and the filing date would be the date of receipt of one or more claims.

In response, the present petition was filed alleging that claims were deposited on April 6, 2002.

In support of petitioner's allegation, petitioner has supplied a declaration stating that a page of claims was filed on April 6, 2002.

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

Clearly petitioner intended to file claims, and petitioner believed that claims were filed. However, petitioner has failed to establish that claims were received by the Office.

The last portion of MPEP 513 states,

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

While petitioner apparently believes that claims were filed on April 6, 2002, the file of application No. 10/117,968[1] shows that claims were not received, since no such claims are present in the file. An intent to file a complete application, and the belief that the application was complete, does not constitute sufficient evidence to establish that the actual application, as filed with the PTO, was complete. Unfortunately, patent applicants and their representatives, who intend to file complete applications, occasionally file applications which are missing one or more pages, due to clerical error, the copying machine, or another reason. The best evidence of what was filed on April 6, 2002 is the application file itself. Accordingly, an applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and filing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed are generally not more persuasive of what was actually filed in the USPTO than the contents of the application file. Such declarations, as in this case, are usually made weeks or months after the actual events recited. In this case, the declaration was signed on June 24, 2002, several weeks after the application was mailed. Thus, the declaration does not have more probative value than the official government record of what was actual received in the USPTO on April 6, 2002.

The instant petition illustrates the reason the USPTO established a practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice, which was has been in existence for many years and is well publicized, requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.[2]

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

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

If a request of reconsideration is not timely filed, the file will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 28, 2002, the date the missing parts were supplied, using the application papers filed on April 6, 2002 and the page of claims filed on June 28, 2002.

---

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

[2] See section 503, Manual Of Patent Examining Procedure (MPEP 503).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUL 0 7 2006

OFFICE OF PETITIONS

In re Application of :
Carl L. Hansen et al :
Application No. 10/117,978 : ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. 20174C-004920US

This is a decision on the petition filed, July 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 11, 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 1722 for processing of the request for continued examination under 37 CFR 1.114.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

COPY MAILED

JUL 17 2002

OFFICE OF PETITIONS

In re Application of :
Tahan :
Application No. 10/117,980 : DECISION GRANTING
Filed: April 5, 2002 : PETITION
Attorney Docket No. 3346.1000-000 :

This is a decision on the petition filed June 10, 2002, to accord the above-identified application a filing date of April 5, 2002.

On April 5, 2000, the application was filed.

On May 14, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition alleges that drawings were deposited on April 5, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Drawings - Total sheets [16]" on April 5, 2002.[1] Petitioner has also submitted a copy of the missing documentation- 16 pages of drawings.

Upon review of the record, the drawings deposited on April 5, 2002, have not been located. However, the evidence is convincing that the application papers deposited on April 5, 2002, included drawings, and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of April 5, 2002.

In view of the above, the petition is **granted**. The copy of the drawings submitted with the petition will be used for examination purposes.

The petition fee of $130 will be credited to the petitioner's deposit account.

The Notice mailed May 14, 2002, was erroneous and is hereby vacated to the extent if failed to accord the application a filing date and to the extent that it stated drawings were missing.

---

[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 April 5, 2002, using the application papers filed on April 5, 2002, and the copy of the 16 sheets of drawings filed on June 10, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PILLSBURY WINTHROP, LLP
1600 TYSONS BOULEVARD
MCLEAN, VA 22102

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APR 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Basol, et al. :
Application No. 10/117,991 : ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. 042496 0269245 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 4, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 9, 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 10, 2002.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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TROPIC NETWORKS INC.
DR. VICTORIA DONNELLY
135 MICHAEL COWPLAND DRIVE
KANATA ON K2M 2E9 CA CANADA

COPY MAILED

MAR 1 0 2004

OFFICE OF PETITIONS

Applicant: Dang et al.
Appl. No.: 10/117,992
Filing Date: April 9, 2002
Title: TWO-STAGE RECONNECT SYSTEM AND METHOD
Attorney Docket No.: TR-015
Pub. No.: US 2003/0189896 A1
Pub. Date: October 9, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on October 27, 2003 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/17/04

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction on Patent No.: 6777655

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Lamonte Newsome

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

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

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

Comments:

Examiner is agreed with Applicant's remark. CW

Robin D. Evans — SPE

3742 — 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

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

COPY MAILED

APR 27 2004

OFFICE OF PETITIONS

Applicant: Chung et al.
Appl. No.: 10/118,047
Filing Date: April 9, 2002
Title: ESTERASE, ITS DNA, ITS OVEREXPRESSION AND PRODUCTION OF OPTICALLY ACTIVE ARYL PROPIONIC ACIDS USING THE SAME
Attorney Docket No.: 05823.0218-00000
Pub. No.: US 2003/0170835 A1
Pub. Date: September 11, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on November 12, 2003 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

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

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MAIL

NOV - 3 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 8

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

In re Application of: JEFFREY L. ROBBIN ET AL.
Application No.: 10/118,069
Filed: April 05, 2002
For: **INTELLIGENT SYNCHRONIZATION OF MEDIA PLAYER WITH HOST COMPUTER**

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

This is a decision on the petition, filed July 07, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
>
> (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed **most closely related** to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a **detailed discussion** of the references, which discussion points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is patentable over the references.
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

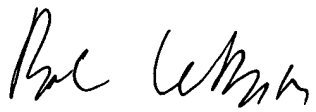
Petitioner's submission is deficient in that it does not comply with items (D), and (E) above:

(1) The references which can be submitted are only those deemed **most closely related** to the claimed subject matter. Petitioner is required to make of record that the submitted references be "deemed **most closely related** to the subject matter encompassed by the claims."

(2) Petitioner's submission does not provide a **detailed** discussion of the references, which points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is patentable over the references. Petitioner's submission discusses the references generally, not in detail. Moreover, Petitioner's submission recites the independent claims and concludes that the references are believed not to teach or suggest the claimed invention. There is no detailed discussion which complies with the requirement of the item (E) above.

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.



Bot LeDynh
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Aug 1, 2006

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/118,092 Patent No.: 7,034,688 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**.

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: ① Foreign priority not granted because foreign document copy not received.
② Foreign priority data erroneously placed under "Foreign Document" (prior art) section in the request.

B. L.

DANIEL WU
SUPERVISORY PATENT EXAMINER SPE

2612
Art Unit

PAGE 1/1 * RCVD AT 8/1/2006 1:36:29 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/40 * DNIS:2732963 * CSID:703 308 9759 * DURATION (mm-ss):00-42

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Aug 1, 2006

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/118,092 Patent No.: 7,034,683 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**.

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: ① Foreign priority not granted because foreign document copy not received.
② Foreign priority data erroneously placed under "Foreign Document" (prior art) section in the request.

B. L.

DANIEL WU
SUPERVISORY PATENT EXAMINER SPE

2612
Art Unit

PAGE 1/1 * RCVD AT 8/1/2006 1:36:29 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/40 * DNIS:2732963 * CSID:703 308 9759 * DURATION (mm-ss):00-42

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

PIONEER HI-BRED INTERNATIONAL INC.
7100 N.W. 62ND AVENUE
P.O. BOX 1000
JOHNSTON, IA 50131

COPY MAILED

AUG 0 2 2002

OFFICE OF PETITIONS

In re Application of	:	
Jung	:	
Application No. 10/118,101	:	DECISION GRANTING
Filed: April 8, 2002	:	PETITION
Attorney Docket No. 1304	:	

This is a decision on the petition filed June 5, 2002, to accord the above-identified application a filing date of April 8, 2002.

On April 8, 2002, the application was deposited.

On May 20, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were missing and that a filing date would be accorded upon receipt of the missing items.

In response, the present petition alleges drawings were inadvertently omitted. However, the specification incorporated by reference the entire disclosure of a provisional application. The petition states, "the drawings . . . are identical to the drawings . . . submitted . . . in Provisional Application No. 60/284,481."

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 drawings were present in the Office on April 8, 2002, albeit in the file of another application, i.e., provisional application no. 60/284,481. Therefore, on petition, the application may be accorded the requested filing date of April 8, 2002.

In view of the above, the petition is **granted**. The copy of the drawings submitted with the petition will be used for examination purposes.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 8, 2002, using the application papers filed on April 8, 2002, and the copy of drawings filed on June 5, 2002. The application is also being returned to the Office of Initial Patent Examination for consideration of the preliminary amendment filed on June 5, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 08-02

Paper No. 3

GATEWAY, INC.
LAW DEPARTMENT, MS Y04
610 GATEWAY DRIVE
BOX 2000
N. SIOUX CITY SD 57049-2000

COPY MAILED

AUG 0 9 2002

OFFICE OF PETITIONS

In re Application of	:
Anthony M. Olson	: DECISION GRANTING
Application No. 10/118,103	: PETITION
Filed: 8 April, 2002	:
Attorney Docket No. P1875US00	:

This is a decision on the petition filed on 7 May, 2002, which is treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 8 April, 2002, rather than the presently accorded filing date of 9 April, 2002.

The petition is **GRANTED**.

Petitioner alleges that the application was deposited in Express Mail service on 8 April, 2002. In support, on 7 May, 2002, petitioner supplied a copy of Express Mail Label No. EV087433104US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label, however, appears to be 04/09/02. The Express Mail label also contains an official USPS postmark, however, dated 8 April, 2002. Additionally, a search of the USPTO USPS Express Mail Information Database confirms that the package bearing the above-referenced Express Mail Label number was accepted by the USPS on 8 April, 2002.

In view of the above, the petition is granted. The petition fee submitted on 7 May, 2002, will be refunded to counsel's Deposit Account No. 50-0439.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to **8 April, 2002.** Thereafter, the application will be forwarded to Technology Center 2100 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

Mailed: 5/13/05

rvk
Paper No. _____

In re application of:
Sung H. Yu et al
Serial No.: 10/118,133
Filed: April 08, 2002
For: CHROMIA SPRAY POWDERS AND A PROCESS FOR MAKING SAME

DECISION ON PETITION

This is a response to the PETITION TO THE COMMISSIONER UNDER RULES 181-182 , filed November 19, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of January 27, 2004, for failure to timely file a proper response to the Office letter dated February 21, 2003 be withdrawn. The petitioner asserts that applicants timely filed a proper response to the Office letter on May 20, 2003.

DECISION

The instant request is accepted as a petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did file the proper response to the Office letter of February 21, 2003 in a timely manner. The evidence provided includes a copy of the Response with an executed Certificate of Transmission/Mailing dated May 20, 2003; and a copy of Auto-Reply Facsimile Transmission indicating receipt of the Response by the USPTO dated May 20, 2003.

Therefore, the abandonment dated January 27, 2004 was in error. A review of the instant application file indicates that this error was administratively corrected via

Notice of Rescinded Abandonment dated December 14, 2004, and a Non-Final rejection was mailed out on December 21, 2004. Therefore, no further action is required.

The Petition is **DISMISSED.**

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SAINT-GOBAIN CORPORATION
1 NEW BOND STREET
BOX NUMBER 15138
WORCESTER, MA 01615-0138

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1177 Avenue of the Americas
41st Floor
New York, NY 10036-2714

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AUG 1 3 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Tomiya Sonoda, et al. :
Application No. 10/118,199 :
Filed: April 5, 2002 :
Attorney Docket No. P/1071-1555 :

This is a decision on the petition, filed August 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 July 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2816 for further processing of the request for continued examination under 37 CFR 1.114 filed August 12, 2004.

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

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KOREN ANDERSON
MOLECULAR PROBES INC
29851 WILLOW CREEK RD
EUGENE OR 97402-9132

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OFFICE OF PETITIONS

In re Application of
Archer, et al. :
Application No. 10/118,204 : DECISION ON
Filed: April 5, 2002 : PETITION
Attorney Docket No. MP.0072 :

This is in response to the petition under 37 CFR 1.137(b), filed September 20, 2005, 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 respond to the non-final Office action mailed March 10, 2005. This Office action set a period for reply of three months. On September 12, 2005, applicants filed an amendment, accompanied by an authorization to charge a three month extension of time. However, the amendment and the authorization for the extension of time were not signed. Accordingly, the above identified application became abandoned on June 11, 2005. The Office mailed a Notice of Non-Compliant Amendment, pointing out that the amendment lacked a signature, on September 21, 2005. On September 27, 2005, the Office improperly mailed a Letter Withdrawing a Notice of Non-Compliant Amendment.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an executed amendment.

As the authorization to charge the $1020 fee for a three month extension of time was not signed, this fee should not have been charged by the Office. Accordingly, the fee has been refunded to Deposit Account No. 13-3900.

The application file is being forwarded to Group Art Unit 1641 for consideration of the amendment filed September 20, 2005.

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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Edward L. White, P.C.
13924-B Quail Pointe Drive
1900 NORTHWEST EXPRESSWAY
Oklahoma City OK 73134

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OFFICE OF PETITIONS

In re Patent No. 6,914,531 : DECISION DISMISSING PETITION
Issue Date: July 5, 2005 : UNDER 37 CFR 1.78(a)(3)
Application No. 10/118,207 :
Filed: April 9, 2002 :
Attorney Docket No. Young-VCIP :

This is a decision on the petition, filed May 14, 2007, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/993,537, filed November 6, 2001, by way of a certificate of correction.

The petition is **DISMISSED.**

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed April 9, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

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

require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1). It is noted that application No. 09/993,537 does not claim priority to application No. 09/567,510. The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and of a certificate of correction (along with the $100 fee) will be required as a condition for granting the petition under 37 C.F.R. §1.78(a)(3).

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

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

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

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

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: James M. Rudd	: DECISION ON REQUEST FOR
Patent Number	: 7580988	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/118,215	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **864** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Application of	:	
Brian W. BIGGER et al.	:	
Application No. 10/118,231	:	ON PETITION
Filed: April 9, 2002	:	
Attorney Docket No. 102286.141 US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 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 December 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 on March 29, 2005.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/249,929, filed October 13, 2005.

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

Brian Hearn
Petitions Examiner
Office of Petitions

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600 CONGRESS AVENUE, SUITE 2400
AUSTIN, TX 78701

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OFFICE OF PETITIONS

In re Application of :
Maria-Ana Ghetie et al :
Application No. 10/118,262 : DECISION ON PETITION
Filed: April 8, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. UTSD:521USD1 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 13, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/052,013, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant pending nonprovisional application was filed 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 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 the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1642 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. 60/052,013.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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COMMISSIONER FOR PATENTS
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ABBOTT LABORATORIES
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DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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MAY 17 2004

OFFICE OF PETITIONS

In re Application of :
Singh, et al. :
Filed: April 8, 2002 : ON PETITION
Application No. 10/118,300 :
Docket No.: 6799.US.02 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 29, 2004, to revive the above-identified application.

This application became abandoned September 28, 2003 for failure to timely file a proper response to the Office communication mailed August 27, 2003. The Office communication set a one (1) month period of time for response. No extensions of time in accordance with 37 CFR 1.136(a) were timely obtained. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (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 of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the Office communication mailed August 27, 2003 is accepted as having been unintentionally delayed.

An applicant cannot request continued examination of an application until after prosecution in the application is closed. *See*, 37 CFR 1.114(a). Accordingly, the RCE submitted March 29, 2004 is improper and has not been entered into the record. Petitioner may request a refund of the RCE filing fee of

$770.00 by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application file is being forwarded to Technology Center 1600 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

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ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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OFFICE OF PETITIONS

In re Application of
Amitabh Singh et al.
Application No. 10/118,300
Filed: April 8, 2002
Attorney Docket No. 6799.US.02

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed September 19, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned on September 19, 2005, for failure to timely file a reply to the final Office action mailed June 16, 2005 which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed February 8, 2006.

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

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

---

[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)).

application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

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

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

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

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of June 16, 2005, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on June 16, 2005, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

A courtesy copy of an Advisory Action is included.

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/118,300	**Applicant(s)** SINGH ET AL.	
	Examiner Shengjun Wang	**Art Unit** 1617	

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

THE REPLY FILED 19 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

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

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: of the reasons set forth in the final rejections. Note the proposed amendments have not beenentered..
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Shengjun Wang
Primary Examiner
Art Unit: 1617

Continuation of 3. NOTE: The proposed amendemnts, canceling all pending claims and adding 140 new claims, raise new issue for further consideration. Further, It is noted the amendment canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because all the claims are directed to a method for determining modulation of the health-related quality-adjusted time-to-progression of disease in patient undergoing endothelin antagonist chemotherapy for prostate cancer. See, applicants' election filed September 13, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 15

CHRIS CAMPBELL
HUNTON & WILLIAMS
1751 PINNACLE DRIVE
SUITE 1700
MCLEAN, VA 22102

COPY MAILED

OCT 0 2 2003

OFFICE OF PETITIONS

In re Application of :
John B. Bartlett :
Application No. 10/118,301 : ON PETITION
Filed: April 8, 2002 :
Attorney Docket No. FIREPRO-3 DIV USA :

This is a decision on the petition under 37 CFR 1.137(b), filed September 16, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 31, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 1, 2003.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on September 16, 2003.

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

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

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

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

cc:

Christopher C. Campbell
Hunton & Williams
1900 K Street, N.W., Suite 1200
Washington, DC 20006-1109

UNITED STATES 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.

BREFFNI X. BAGGOT
2650 EDISON AVENUE
GRANITE CITY IL 62040

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JUL 0 9 2007

OFFICE OF PETITIONS

In re Application of :
Wayne Openlander : DECISION ON PETITION
Application No. 10/118,308 :
Filed: April 8, 2002 :
Title: SYSTEM FOR MICROWAVE ENHANCED CHEMISTRY :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed March 9, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the Notice of Non-compliant Amendment (37 CFR 1.121) mailed August 30, 2005. The Notice set a period for reply of one month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on October 1, 2005. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

Petitioner has satisfied the requirements of 37 CFR 1.137(b). The petition included the required reply in the form of an amendment, the petition fee, and the required statement of unintentional delay.

The above-identified application has been abandoned for an extended period of time. The United States Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing

of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the United States Patent and Trademark Office).

The application file is being forwarded to Technology Center AU 3742 for consideration of the response submitted on petition filed March 9, 2007.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 12

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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MAY 05 2004

OFFICE OF PETITIONS

In re Application of :
Myung C. Yoo :
Application No. 10/118,317 : ON PETITION
Filed: April 9, 2002 :
Attorney Docket No. 9323.029.00-US :

This is a decision on the petition, filed April 26, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 26, 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. A Notice of Abandonment was mailed on December 15, 2003. On April 26, 2004, an election, the present petition and a five-month petition for extension of time were filed.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the $1,005.00 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 2822 for consideration of the response filed April 26, 2004.

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

OIPE JC73
FEB 04 2005
PATENT & TRADEMARK OFFICE

PTO/SB/83 (05-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Number	10/118,360
Filing Date	April 9, 2002
First Named Inventor	Ernest G. Roden
Art Unit	1615
Examiner Name	Susan T. Tran
Attorney Docket Number	544412000210

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPROVED
SPRE, TC1600
3/1/05

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:
Application is being transferred to another attorney.

This request is being made at the request of the assignee, **Sterifx, Inc.**

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☐ Change the correspondence address and direct all future correspondence to:

CORRESPONDENCE ADDRESS

☐ Customer Number [ ] → [ ]

OR

☒ Firm or Individual Name	James Remenick (Powell Goldstein LLP)				
Address	901 New York Avenue, NW Third Floor				
City	Washington	State	DC	Zip	20001-4413
Country	USA				
Telephone	(202)347-0066			Fax	(202) 624-7222

☒ This request is made on behalf of myself and
- ☐ all the attorneys/agents of record,
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☒ the attorneys/agents associated with Customer Number **25227**

This request is enclosed in **triplicate** (including any attachments).

Name	Wayne C. Jaeschke, Jr. Registration No. 38,503
Signature	
Date	January 28, 2005

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.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 1/28/05 Signature: _____ (Chimin Taylor)

va-91887

OIPE
FEB 04 2005
PATENT & TRADEMARK OFFICE

1615

PATENT
Old Attorney Docket No. 54441-20002.10
New Attorney Docket No.: 144005.00202

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
Ernest G. RODEN et al.	)	Group Art Unit: 1615
Application No.: 10/118,360	)	Examiner: Susan T. TRAN
Filed: April 9, 2002	)	

Title: MULTI-PURPOSE ACID COMPOSITIONS

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

CHANGE OF CORRESPONDENCE ADDRESS
AND REQUEST TO DISREGARD WITHDRAWAL DOCUMENT

Dear Sir:

A "*Request For Withdrawal as Attorney or Agent*" (Form PTO/SB/83 {05-03}) was filed by Mr. Wayne C. Jaeschke Jr., Registration No. 38,503, of Morrison & Foerster LLP. This form was filed without the knowledge of and against the wishes of the applicant, and long after responsibility for this application had been transferred from Morrison & Foerster LLP to the undersigned. Furthermore, the form appears to be incorrect and/or incomplete. Accordingly, applicant respectfully requests that the withdrawal request be disregarded.

Nevertheless, the withdrawal request does indicate that further correspondence regarding this application is to be directed to the undersigned. To the extent the withdrawal is disregarded, as indicated above, applicant now requests that all further correspondence regarding this application be directed as follows:

James Remenick
Powell Goldstein LLP
Intellectual Property Group
901 New York Avenue, N.W., Third Floor
Washington, DC 20001-4413
Telephone: (202) 347-0066
Facsimile: (202) 624-7222
E-mail: jremenick@pogolaw.com

Please also change the Attorney Docket No. for this case from 54441-20002.10 to the following:

Attorney Docket No. 144005.00202

The undersigned has full power-of-attorney from applicant to make these requests.

In the event fees are due in this application, the Commissioner is authorized to charge such fees to the undersigned's Deposit Account No. 50-1682.

If you have any questions regarding this "Change of Correspondence Address and Request to Disregard Withdrawal Document," please feel free to contact the undersigned at the address, telephone numbers or e-mail address provided above.

Respectfully submitted,
POWELL GOLDSTEIN LLP

Date: February 4, 2005

By: _____
James Remenick
Attorney of Record
Registration No. 36,902

Powell Goldstein LLP
Intellectual Property Group
901 New York Avenue, N.W., Third Floor
Washington, DC 20001-4413
Telephone: (202) 347-0066
Facsimile: (202) 624-7222

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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James Remerick
POWELL GOLDSTEIN, L.L.P.
901 New York Avenue, N.W.
Third Floor
Washington, DC 20001-4413

COPY MAILED

AUG 29 2005

OFFICE OF PETITIONS

In re Application of :
Ernest G. RODEN, et al. :
Application No. 10/118,360 :
Filed 09 April 2002 :
Attorney Docket No.: 144005.00202 :

DECISION ON
PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed 05 July 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 30 November 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on 01 March 2005.

The present 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 Response under 37 CFR 1.111, (2) the petition fee for a small entity, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of 30 November 2004 is accepted as having been unintentionally delayed.

As authorized in the petition, the $750.00 petition fee for a small entity under 37 CFR 1.137(b) and 1.17(m) has been charged to Deposit Account No. 50-1682.

The matter is being referred to Technology Center Art Unit 1615.

Telephone inquiries concerning this decision should be directed to Nguyen Ngoc-Ho

at (571) 272-3290.

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

NNH/WL:hn

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Blank Rome LLP
600 New Hampshire Avenue, N.W.
Washington, D.C 20037

MAILED

OCT 12 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Tracy Harmon Blumenfeld : **TO MAKE SPECIAL**
Application No. 10/118,369 : **(ACCELERATED**
Filed: April 9, 2002 : **EXAMINATION)**
For: ONLINE, INTERACTIVE EVALUATION
RESEARCH PERFORMANCE :

This is in response to the petition filed on March 31, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

The petition fails to adequately meet requirement (E) above. In this regard, the petition does not include a detailed discussion of how the claimed subject matter is patentable over each of the references located in applicant's search, and cited in the Information Disclosure Statements filed May 10, 2002 and March 31, 2004.

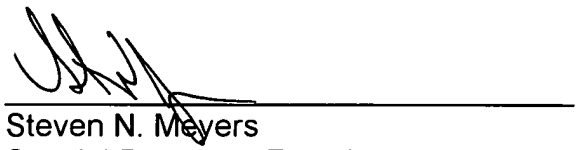
For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

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

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



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

SNM/rwg: 10/06/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG - 1 2005

BLANK ROME LLP
600 New Hampshire Avenue, N.W.
Washington, DC 20037

In re application of	:	**DECISION ON PETITION**
Tracy Harmon	:	**TO MAKE SPECIAL**
Application No. 10/118,369	:	**(ACCELERATED**
Filed: April 09, 2002	:	**EXAMINATION)**
For: ONLINE, INTERACTIVE EVALUATION OF RESEARCH PERFORMANCE		

This is in response to the renewed petition filed on February 18, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

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

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

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

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

RAR/pav: 03/03/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JUN 0 5 2005
Technology Center 2100

In re Application of:
Jeff Steven EDGETT, et al.
Application No.: 10/118,380
Filed: April 5, 2002
For: METHOD AND SYSTEM FOR ASSOCIATING A PLURALITY OF TRANSACTION DATA RECORDS GENERATED IN A SERVICE ACCESS SYSTEM

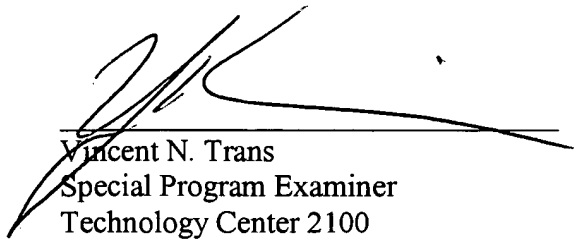
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed October 21, 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
571-272-3613

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

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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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 04/22/2010

Applicant	: Claudio DeSanti	: DECISION ON REQUEST FOR
Patent Number	: 7606167	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/118,386	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2203** 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 05/17/2010

Applicant : Claudio DeSanti
Patent Number : 7606167
Issue Date : 10/20/2009
Application No: 10/118,386
Filed : 04/05/2002

: 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 **2253** 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 13

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

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MAY 18 2004

OFFICE OF PETITIONS

In re Application of
David J. Corisis et al
Application No. 10/118,401
Filed: April 8, 2002
Attorney Docket No. 2269-4815US

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed April 7, 2004 (and resubmitted on May 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 March 9, 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.

The file will be forwarded to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the amendment received April 9, 2004 and the Information Disclosure Statement received on May 10, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Jordan M. Becker
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

MAILED

FEB 22 2005

Technology Center 2100

In re Application of:
Albert et al.
Application No. 10/118,406
Filed: April 5, 2002
For: METHOD AND SYSTEM FOR IDENTIFYING A REPLAY ATTACK BY AN ACCESS DEVICE TO A COMPUTER SYSTEM

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed October 21, 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.

Accordingly, the request is **DENIED**.

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

for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

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MAY 22 2006

OFFICE OF PETITIONS

In re Application of	:	
Craig a. Paulsen	:	
Application No. 10/118,414	:	ON PETITION
Filed: April 8, 2002	:	
Attorney Docket No.	:	
29757/P-467	:	

This is a decision on the petition under 37 CFR 1.55(c), filed March 22, 2006, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of prior-filed application PCT/US02/09967, filed March 28, 2002.

A petition under 37 CFR 1.55(c) to accept an unintentionally 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 did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on April 8, 2002, which is after November 29, 2000 and within 12 months of March 28, 2002 (the filing date of the foreign application to which benefit is now being claimed). On March 22, 2006, an Application Data Sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted**.

A Corrected Filing Receipt which reflects the above-noted foreign application accompanies this decision on petition.

This application is being forwarded to Technology Center AU 3713 for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Frances Hicks
Lead Paralegal
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID TOREN, ESQ.
ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK NY 10017-5621

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DEC 15 2006

OFFICE OF PETITIONS

In re Application of :
Gernot M. Steifensand :
Application No. 10/118,447 : DECISION GRANTING PETITION
Filed: April 8, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. DT-6147 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 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 amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of May 11, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3636.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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CARLA GANNON LAW
118 SW 2ND STREET
OAK ISLAND, NC 28465

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AUG 2 4 2006

OFFICE OF PETITIONS

In re Application of :
Scott D. Redmond :
Application No. 10/118,458 : DECISION ON PETITION
Filed: April 8, 2002 : UNDER 37 CFR 1.137(b)
For: MESSAGE BROADCAST SYSTEM :

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 7, 2002, which required the submission of the $370 basic filing fee and a $65 surcharge fee the late submission of the filing fee. 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 8, 2002. A Notice of Abandonment was mailed on February 18, 2004.

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

37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c).

The instant petition lacks item (1). The notice of May 7, 2002 required, *inter alia*, the submission of a filing fee, which, at the time of mailing of the notice, was $370. However, the fee now due is $395. The filing fee tendered with the petition is $370. Therefore, a balance of $25 is due before revival of this application can be effected.

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
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARLA GANNON LAW
118 SW 2ND STREET
OAK ISLAND, NC 28465

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SEP 21 2006

OFFICE OF PETITIONS

In re Application of :
Scott D. Redmond :
Application No. 10/118,458 : DECISION GRANTING PETITION
Filed: April 8, 2002 : UNDER 37 CFR 1.137(b)
For: MESSAGE BROADCAST SYSTEM :

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

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 7, 2002, which required the submission of the $370 basic filing fee and a $65 surcharge fee for the late submission of the filing fee. 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, this application became abandoned on July 8, 2002. A Notice of Abandonment was mailed on February 18, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply); (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated

under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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

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

This matter is being referred to the Office of Initial Patent Examination for pre-examination processing.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Carla L. Gannon
Carla Gannon Law
4593 Long Beach Road, Suite 2A
Southport, NC 28461

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OFFICE OF PETITIONS

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

In re Application of :
Alexander Tain et al :
Application No. 10/118,460 : ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. 11206.00/P7. :

This is a decision on the petition, filed May 20, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2825 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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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SEP 15 2005

OFFICE OF PETITIONS

In re	:	
Enzelberger, et al.	:	DECISION REGARDING
Application No. 10/118,466	:	PATENT TERM ADJUSTMENT
Filed: April 5, 2002	:	
Attorney Docket No. 20174C-00440US	:	

This decision is in response to the "REQUEST FOR RE-DETERMINATION OF PATENT TERM ADJUSTMENT", filed May 18, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **DISMISSED**.

On February 22, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is four hundred eighty-four (484) days. On May 18, 2005, Applicants submitted the instant "REQUEST FOR RE-DETERMINATION OF PATENT TERM ADJUSTMENT". Applicants state that they believes there was an error in the patent term adjustment calculation. In particular, because a one month extension of time was obtained to respond to a Notice to File Missing Parts, which set a two month period for reply. In addition, Applicants point out that a one month extension of time was obtained to respond to a Restriction Requirement, which set a one month period for reply.

The Office initially determined a patent term adjustment of four hundred eighty-four (484) days based on an adjustment for PTO delay of four hundred eighty-four (484) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by zero (0) days of applicant delay.

A review of the application file confirms that no instances of applicant delay occurred. Pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b), Applicants had three (3) months to respond to both the Notice to File Missing Parts and the Restriction Requirement **for purposes of patent term adjustment.** It is true that each notice set a shorter period for reply, to which applicants had to timely reply in order to avoid abandonment of the application.

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 Fries
for

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/05/06

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/118467** Patent No **7005493**

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. 183

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: _____

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE 1712 **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/05/06

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/118467** Patent No **7005493**

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. 173

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: claim 44 (original numbering scheme) had been allowed but had not been re-numbered on the issue classification sheet +, consequently, was not printed

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE **Art Unit** 1712

UNITED STATES PATENT AND TRADEMARK OFFICE

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TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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FEB 07 2006

OFFICE OF PETITIONS

In re Patent No. 6,752,922	:	
Issue Date: June 22, 2004	:	
Application No. 10/118,469	:	LETTER
Filed: June 22, 2004	:	
Attorney Docket No. 020174-003710US	:	

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

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

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

This matter is being referred to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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1600 SAN JACINTO CENTER
98 SAN JACINTO BLVD.
AUSTIN, TX 78701-4039

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JUN 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Benjamin Anthony Knott et al :
Application No. 10/118,478 : ON PETITION
Filed: April 8, 2002 :
Attorney Docket No. 064198.0112 (T00373)

This is a decision on the petition filed, April 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 April 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 2626 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).

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

DAVID C. BREZINA
LEE MANN SMITH McWILLIAMS SWEENEY & OHLSON
P.O. BOX 2786
CHICAGO, IL 60690-2786

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MAR 1 2 2003

OFFICE OF PETITIONS

In re Application of :
Richard L. Thelen et al :
Application No. 10/118,481 : NOTICE
Filed: April 8, 2002 :
Attorney Docket No. 1095-1053.3 :

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 AU 1725.

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

cc: DAVID C. BREZINA
BARNES & THORNBURG
209 S. LaSALLE ST., STE. 410
CHICAGO, IL 60604

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DRW 08-02

Paper No. 6

SAMUEL A. KASSATLY
6819 TRINIDAD DRIVE
SAN JOSE CA 95120-2056

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AUG 2 1 2002

OFFICE OF PETITIONS

In re Application of	: DECISION DISMISSING
Myllymaki et al.	: PETITION UNDER 37 CFR 1.53
Application No. 10/118,491	: AND GRANTING
Filed: 5 June, 2002	: PETITION
Attorney Docket No. ARC920010118US1	: UNDER 37 CFR 1.182

This is a decision on the petition styled under 37 CFR 1.182, filed on 5 June, 2002, which is treated as (a) a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 5 April, 2002, with a drawing of Figure 6 as a part of the original disclosure of the application and (b), in the alternative, as a petition under 37 CFR 1.182 to accord the application a filing date of 5 June, 2002 with a drawing of Figure 6 as a part of the original disclosure.

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

The petition under 37 CFR 1.182 is **granted**.

The application was filed on 5 April, 2002. However, on 29 May, 2002, Initial Patent Examination Division mailed a "Notice to File Corrected Application Papers" stating that the application had been accorded a 5 April, 2002, filing date, but that the drawing of Figure 6 appeared to have been omitted. Substitute drawings in compliance with 37 CFR 1.84 were also required.

In response, on 5 June, 2002, a drawing containing Figure 6 was filed accompanied by the present petition. Petitioner argues that Figure 6 "is adequately and fully described in the specification, as originally filed on April 5, 2002."

The Office file is the official record of the papers originally filed in this application. A review of the official record reveals that no drawing figures were filed with the original

application papers. Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is 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. However, due to the absence in the record of a postcard receipt itemized with respect to the drawings that bears a USPTO date stamp of 5 April, 2002, showing that a sheet of drawings containing Figure 6 was received in the USPTO on 5 April, 2002, the application cannot be accorded a filing date of 5 April, 2002, with Figure 6 as a part of the original disclosure.

As petitioner states that Figure 6 is "adequately and fully described in the specification", petitioners may submit Figure 6 as a preliminary amendment. If Figure 6 is submitted as a preliminary amendment, it must be reviewed by the examiner for new matter.

Nevertheless, as petitioners have requested in the alternative that the application be accorded the later filing date with Figure 6 as a part of the original disclosure, the application will be forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of 5 June, 2002, using the application papers filed on 5 April, 2002, and the copy of Figure 6 of the drawings filed on 5 June, 2002.

---

[1] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

Receipt is acknowledged of the substitute drawings filed on 5 June, 2002. The substitute drawings are not part of the original disclosure and must be reviewed by the examiner for new matter.

The application is being forwarded to the Office of Initial for reprocessing with a filing date of 5 June, 2002, using the application papers filed on 5 April, 2002, and the copy of Figure 6 filed on 5 June, 2002, and for issuance of a Corrected Filing Receipt.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 26 2007

OFFICE OF PETITIONS

PFIZER INC.
10555 SCIENCE CENTER DRIVE
SAN DIEGO CA 92121

In re Patent No. 7,109,228	:	
Jones et al.	:	DECISION ON APPLICATION
Issue Date: September 19, 2006	:	FOR
Application No. 10/118,512	:	PATENT TERM ADJUSTMENT
Filed: April 5, 2002	:	
Attorney Docket No. 0138-US	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 USC § 1.705 FOR ISSUED US PATENT NO. 7,109,228," filed October 13, 2006, requesting reconsideration of the determination of patent term adjustment under 35 U.S.C. 154(b) of 380 days.

The application for patent term adjustment under § 1.705(b) is **DISMISSED AS UNTIMELY FILED**.

Patentee is given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

On March 21, 2005, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. Patentee disputes the reduction of 88 days associated with the filing of a paper on February 14, 2005. The

Determination mailed March 21, 2005 was based in part on the reduction of 88 days associated with the supplemental reply filed on February 14, 2005. PALM records indicate that the issue fee payment was received in the Office on June 20, 2005. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended June 20, 2005. Accordingly, it is appropriate to dismiss this petition as untimely filed under § 1.705(b).

Consideration under § 1.705(d) is not appropriate. As stated in MPEP 2730, § 1.703(d) provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

The issues raised should have been timely raised on application for patent term adjustment under § 1.705(b).

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

Office finance records indicate that the Office charged Deposit Account No. 50-0329 the $400.00 fee set forth in 37 C.F.R. § 1.18(f) for filing a request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) in an application for patent term adjustment under § 1.705. As the $400.00 fee is not required, this amount will be refunded to the Deposit Account.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 18

ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE, TX 77402-0429

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APR 22 2005

OFFICE OF PETITIONS

In re Application of :
Ronald Bormaster :
Application No. 10/118,524 : ON PETITION
Filed: April 8, 2002 :
Attorney Docket No. B99103/03101C1 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely file an Appeal Brief within two months of the November 13, 2003 date of the Notice of Appeal. A Notice of Abandonment was mailed October 4, 2004.

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 (571) 272-3204.

The application file is being forwarded to Technology Center AU 2635, for further processing of the request for continued examination under 37 CFR 1.114 filed November 30, 2004.

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

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Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Blvd., 7th Floor
Los Angeles, CA 90025-1026

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of :
Mathew S. Malden et al. :
Application No. 10/118,538 : DECISION ON PETITION
Filed: April 8, 2002 : TO WITHDRAW
Attorney Docket No. 5306.P023C : 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 25, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Sam Campbell**
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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James Y. Go
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard, Seventh Floor
Los Angeles CA 90025-1026

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SEP 19 2006

OFFICE OF PETITIONS

In re Application of :

RA, et al. :
Application No. 10/118,544 : DECISION ON PETITION
Filed: April 8, 2002 : TO WITHDRAW
Attorney Docket No. 5306.P025C : 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 13, 2006.

The request is **NOT APPROVED**.

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

The 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 Monica A. Graves at 571-272-7253.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **Sam Campbell**
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road, Bldg. 4, Suite 201
Austin, TX 78759

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **6-7-10**

TO SPE OF : ART UNIT **2444**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10118544** Patent No.: **7584283**

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 – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

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: _____

/William C. Vaughn, Jr./

SPE **Art Unit 2444**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 5

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JUL 16 2002

OFFICE OF PETITIONS

HANDAL & MOROFSKY
80 WASHINGTON STREET
NORWALK CT 06854

In re Application of
Kent
Application No. 10/118,567
Filed: April 9, 2002
Attorney Docket No. DK1

DECISION ON
PETITION

This is a decision on the June 18, 2002 petition requesting that the above-identified application be accepted as having been received in its entirety, including figure 8, on April 9, 2002.

The United States Patent and Trademark Office (hereinafter "USPTO") received this application on April 9, 2002. However, on May 20, 2002, the Office of Initial Patent Examination (hereinafter "OIPE") mailed a "Notice Of Omitted Items in a Nonprovisional Application" (hereinafter "notice") noting that although the application had been granted a filing date, figure 8 described the specification was missing. The notice further stated that the filing date would be the date of receipt of the omitted pages of specification unless a petition was filed that successfully showed that the missing item(s) had been included with the application. The notice further stated that if action were taken within two months, then the application would retain its April 9, 2002 filing date and would be processed without the missing pages.

Petitioner responded with the June 18, 2002 filing of this petition. The petition is supported by a copy of the postcard return receipt and includes a copy of the allegedly missing figure. The copy of applicants' postcard receipt indicates receipt of seven sheets of drawings with the application on April 9, 2002. The file wrapper contains seven sheets, with figure 8 included on the seventh sheet. Indeed, since figure 8 is found on the same sheet as figure 7, and since there is no mention of figure 7 being missing, it cannot be but concluded that figure 8 was included with the April 9, 2002, regardless of the supportive postcard receipt.

Accordingly, *this petition is* ***granted***.

The $130.00 petition fee paid for this petition is unnecessary. A refund will be credited to Petitioner's deposit account (da#08-0570).

The application is being returned to OPIE for further processing with a filing date of April 9, 2002 using the copy of figure 8 originally contained within the file wrapper.

Any questions regarding this decision should be directed to Attorney Scott M. Ledford at (703) 306-5593.

Scott M. Ledford
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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

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SEP 15 2006
OFFICE OF PETITIONS

In re Application of :
Lee C. Kuan, et al. :
Application No. 10/118,580 : ON PETITION
Filed: April 8, 2002 :
Attorney Docket No.: 303.769US1 :

This is a decision on the petition, filed September 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The application is being referred to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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ALEXANDRIA, VA 22313-1450
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JAN - 8 2004

MAILED

JAN - 8 2004

OFFICE OF THE DIRECTOR
TC 3600

Attention: David G. Schmaltz
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

Paper No. 12

In re Application of :
Ronald C. Sahr, et al. : **DECISION ON PETITION**
Application No. 10/118,589 : **TO WITHDRAW THE**
Filed: April 8, 2002 : **HOLDING OF ABANDONMENT**
For: BOAT AND METHOD FOR MANUFACTURING
USING RESIN TRANSFER MOLDING

This is a decision on applicant's petition to withdrawal the holding of abandonment.

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

☐ Postcard receipt being dated_____.

☒ USPTO return facsimile receipt dated July 21, 2003.

☐ 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 examiner for appropriate action.

cps/12/29/03

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

KAPLAN & GILMAN , L.L.P.
900 ROUTE 9 NORTH
WOODBRIDGE NJ 07095

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MAR 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Antosik et al. :
Application No. 10/118,595 : DECISION DISMISSING
Filed: April 8, 2002 : PETITION
Attorney Docket No. 312/6 :

This is in response to the petition entitled "Cancellation of Petition under 37 CFR 1.47(a) and Entry of Declaration," submitted by facsimile transmission on December 11, 2002.[1]

The petition is **dismissed**.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be in the form of a request for reconsideration. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

A review of the file record discloses that a declaration for patent application naming twelve inventors and a petition under 47 CFR 1.47(b) were received in the Office on August 5, 2002. The declaration was missing the signature of the first named inventor Roman Antosik. On December 11, 2002, applicant submitted the present petition and a declaration signed by Roman Antosik. The declaration listed only inventor Antosik and not the names of the other joint inventors.

The declarations of record are not in compliance with 37 CFR 1.63(b)(2) because inventor Antosik has not executed a declaration naming all of the joint inventors. Section 602 of the MPEP states:

> Where joint inventors execute separate oaths or declarations each oath or declaration should make reference to the fact that the affiant is a joint inventor together with the other joint inventors indicating they by name.

The declaration submitted with the present petition states: "I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is

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[1] A petition under 47 CFR 1.47(b) was filed August 5, 2002; however, a decision has not been rendered on that petition to date.

claimed and for which a patent is sought on the invention. . . ." Because none of the joint inventors were listed on this declaration, it appears that inventor Antosik is the sole inventor. For these reasons, the declaration is defective. Accordingly, a substitute declaration executed by inventor Antosik, setting forth the named joint inventors is required.

In order to expedite consideration, applicant may wish to submit the renewed petition and substitute declaration by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

Further correspondence with respect to this matter should be addressed as follows and to the attention of Senior Petitions Attorney Christina Tartera Donnell:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Christina Tartera Donnell,
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) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 11

KAPLAN & GILMAN , L.L.P.
900 ROUTE 9 NORTH
WOODBRIDGE NJ 07095

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MAR 1 7 2003

OFFICE OF PETITIONS

In re Application of :
Antosik et al. :
Application No. 10/118,595 : DECISION DISMISSING
Filed: April 8, 2002 : PETITION AS MOOT
Attorney Docket No. 312/6 :

This is in response to the correspondence captioned "Submission of New Declaration of Inventor," submitted by facsimile transmission on March 11, 2003, which is being treated as a renewed petition under 37 CFR 1.47(a).

In view of the joinder of the inventors, 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).

This file is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

KAPLAN & GILMAN LLP
900 ROUTE 9 NORTH
WOODBRIDGE NJ 07095

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JAN 24 2003

OFFICE OF PETITIONS

In re Application of	:	DECISION REFUSING STATUS
Antosik, et al.	:	UNDER 37 CFR 1.47(a) AND
Application No. 10/118,596	:	REFUSING ENTRY OF
Filed: April 8, 2002	:	DECLARATION FILED
Attorney Docket No. 312/9	:	DECEMBER 11, 2002

This is in response to the paper titled "Petition for Filing When and Inventor Refuses to Sign or Cannot be Reached (37 C.F.R. 1.47(B))", filed July 22, 2002, which is being treated as a petition under 37 CFR 1.47(a).[1] In addition, this paper is a notice that the declaration filed December 11, 2002 will not be entered.

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 April 8, 2002, without, *inter alia*, an executed oath or declaration. Accordingly, on May 17, 2002, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a period for reply of two months.

In reply, on July 22, 2002, applicant filed the instant petition (and fee) together with the surcharge for late filing of the declaration. The petition was not timely filed in accordance with the provisions of 37 CFR 1.6 (Express Mail) or 37 CFR 1.8 (Certificate of Mailing). However, applicant included an authorization to charge any additional fees to his deposit account. Therefore, the $55 fee for a one month extension of time has been charged to Deposit Account No. 11-0223. With the one month extension of time, the petition is timely filed.

---

[1] 37 CFR 1.47(b) only applies when **all** of the inventors refuse to sign or cannot be found.

Accompanying the petition were: 1) a declaration signed by inventors Jayanta Das, Bharat Dave, Kuo-Ming Lee, David Lowe, Kwang Kim, Jithamithra Sarathy, Ronald Simprini, Boris Stefanov, Tan Thai, Wai-Ching Yu, but lacking a signature from inventor Roman Antosik; and 2) a copy of an employee non-disclosure, invention assignment, non competition, and non-solicitation agreement.

On December 11, 2002, before the rendering of a decision on his 37 CFR 1.47(a) petition, applicant filed a paper titled "Cancellation of Petition Under 37 CFR 1.47(a) and Entry of Declaration", together with a copy of a two page declaration executed by previously non-signing inventor Antosik.

However, the declaration filed on December 11, 2002 does not comply with 37 CFR 1.63. Inventor Roman Antosik has not signed a declaration that identifies the other joint inventors. Regarding this, the MPEP states:

> While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).[2]

Here, the declaration executed by Antosik only identifies Antosik as the inventor. As Antosik has not signed a declaration that complies with CFR 1.63, consideration of the petition filed July 22, 2002 follows.

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), the petition has been carefully considered. Applicant has alleged that Antosik has refused to sign a declaration listing all eleven joint inventors. However, applicant has not supplied sufficient evidence of Antosik's refusal. When a refusal to sign 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

---

[2] MPEP 201.03(B).

papers and/or to whom the refusal was made."[3] In addition, "[w]hen 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."[4]

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, Virginia

Telephone inquiries regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

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

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

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[3] MPEP 409.03(d).

[4] Id.

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KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND, MA 01778

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of :
Tai-Lin Fan, et al. :
Application No. 10/118,609 : ON PETITION
Filed: April 8, 2002 :
Attorney Docket No. 100019012001 :

This is a decision on the petition, filed September 24, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2853 for further processing of the request for continued examination under 37 CFR 1.114 filed September 24, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND, MA 01778

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APR 12 2006
OFFICE OF PETITIONS

In re Application of Fan et al. :
Application No. 10/118,609 : Decision on Petition
Filing Date: April 8, 2002 :
Attorney Docket No. I0001-012001 :

This is a decision on the petition under 37 CFR 1.181, filed September 28, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

The application was deemed abandoned for failure to file a reply to the April 28, 2005, which set a one-month extendable time period for response.

A Notice of Abandonment was mailed on August 25, 2005.

Petitioner filed a reply to the Office action along with a request for a four-month extension of time on September 28, 2005.

Petitioner correctly asserts the application is not abandoned since a reply was timely filed due to the request for extension of time.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2853 will be informed of the instant decision and the examiner will further review the application 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

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OCT 19 2005

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BRUCE H. JOHNSONBAUGH
ECHOFF & HOPPE
333 SACRAMENTO STREET
SAN FRANCISCO, CA 94111

Paper No. 9

In re Application of
BROBECK, WILLIAM I.
Appl No.: 10/118,649
Filed: April 08, 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 August 3, 2004 for failure to timely pay the issue fee due June 23, 2004 required by the Notice of Allowance, mailed March 23, 2004. In view of the statements in the letter received November 23, 2004 alleging non-receipt, the submission is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

The petition is granted.

A review of the file indicates a change of address was filed on June 25, 2003. However, the petition includes a subsequent change of address filed January 5, 2004 that was not in the file. In support of the request, petitioner has submitted a copy of the subsequent change of address and a PTO stamped post card receipt dated January 5, 2004. Since the office did not mail the Notice of Allowance to the correct address of record, the Notice of Abandonment mailed August 3, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. The Notice of Allowance will be remailed and the statutory period that was originally set forth in the Office communication will be restarted to run from the mail date of the newly supplied Notice of Allowance.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

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HUGHES HUBBARD & REED LLP
ONE BATTERY PARK PLAZA
NEW YORK, NY 10004

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DEC 14 2006

OFFICE OF PETITIONS

In re Application of :
Peter Chi-Hsiung Liu :
Application No. 10/118,662 : DECISION GRANTING PETITION
Filed: April 8, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 7312.0001 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 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 December 1, 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 2, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (an amendment), (2) the $750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 1, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2162 for appropriate action in the normal course of business on the reply received June 9, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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R. Alan Burnett
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

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DEC 07 2006

OFFICE OF PETITIONS

In re Application of :
LANKINEN, et al. :
Application No. 10/118,667 : DECISION ON PETITION
Filed: April 08, 2002 : TO WITHDRAW
Attorney Docket No. 005306.P013C : 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 15, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP has been revoked by the assignee of the patent application on October 30, 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) 272-6825.

Patricia Völpe
Petitions Examiner
Office of Petitions

cc: **CSA LLP**
4807 Spicewood Springs Road
Bldg. 4, Suite 201
Austin, TX 78759

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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
10/118,667	04/08/2002	Risto Lankinen	005306.P013C

CONFIRMATION NO. 7448

OC000000021508781

R. Alan Burnett
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 12/07/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/30/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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FEB 25 2008

In re Application of :
Serge Willenegger, et. al. :
Application No. 10/118,686 : ON PETITION
Filed: April 8, 2002 :
Attorney Docket No. 020329U3 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed March 30, 2006. A Notice of Abandonment was mailed on February 9, 2007.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies 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 an amendment; (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 Technology Center Art Unit 2616 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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JAN 07 2004

OFFICE OF PETITIONS

Kenneth D. Baugh
2413 Blodgett
Houston, TX 77004

In re Application of :
Larry B. Tinguee Jr. :
Application No. 10/118,700 : ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. n/a :

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 to the Notice to File Missing Parts mailed May 17, 2002, which 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 18, 2002.

The application file is being forwarded to the Office of Initial Patent Examination Division for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 9, 2005

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction on Patent No.: 6,906,157

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:

The request changes the scope of the claims. The formulas in patent are printed as originally presented by applicants.

Q. Wu — **SPE**

1713 — **Art Unit**

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Paper No. 6

MARK A OATHOUT
3730 KIRBY DRIVE
SUITE 830
HOUSTON TX 77098

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OCT 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Balcar, Bucey, Dudak, Martin, Miller, Amidon :
Application No.: 10/118,742 :
Filed: April 8, 2002 : DECISION ACCORDING
Attorney Docket No: STRT004 : STATUS UNDER
For: PROCESS FOR RECLAIMING MIRROR CULLET : RULE 47(a)
AND PRODUCTION OF A POWDERED GLASS :

This is in response to the petition under 37 CFR 1.47(a), filed September 16, 2002, (certificate of mailing September 9, 2002.)

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.

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on May 10, 2002, indicating that petitioner neglected to file a proper oath or declaration in compliance with 37 CFR 1.63 and that substitute drawings were necessary. The Notice also advised petitioner that a $65.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from the mailing date of the Notice and indicated that extensions of time for reply were available pursuant to 37 CFR 1.136(a).

In response thereto, petitioner filed a request for a two-month extension of time for reply, the instant petition, and the statement of inventor Dudak. Petitioner also filed several accompanying exhibits establishing that diligent efforts were made to locate inventors Balcar, Martin, and Miller so as to present them with a complete copy of the application papers. Petitioner also established that despite presenting inventor Amidon with the application papers, inventor Amidon has refused constructively to join the prosecution of the application. The above-cited application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The substitute drawings filed September 16, 2002, are noted and made of record.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Gerald Balcar
5310 West lake Road
Dunkirk, NY 14048

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OCT 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Balcar, Bucey, Dudak, Martin, Miller, and Amidon :
Application No. 10/118,742 : LETTER
Filed: April 8, 2002 :
Attorney Docket Number: STRT004 :
For: PROCESS FOR RECLAIMING MIRROR :
CULLET AND PRODUCTION OF A POWDERED :
GLASS

Dear Mr. Balcar:

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 joint 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 Kenya A. McLaughlin at (703) 305-0010. 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).

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Mark A. Oathout
2730 Kirby Drive
Suite 830
Houston, Texas 77098

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1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO FL 32802-3791

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SEP 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Ron Cheng Chuan Pang, Yong Peng	:	
Sim, Edwin Dair, Wenbin Jiang,	:	DECISION ON TWO PETITIONS
and Cheng Ping Wei	:	UNDER 37 C.F.R. §§1.47(A)
Application No. 10/118,761	:	AND 1.48(A)
Filed: April 8, 2002	:	
Attorney Docket No. 3918P018	:	
Title: METHOD AND APPARATUS FOR	:	
PLUGGABLE FIBER OPTIC MODULES	:	

This is in response to the two petitions submitted on June 15, 2006.

On April 8, 2002, the application was deposited with a fully executed declaration, identifying Ron Cheng Chuan Pang, Yong Peng Sim, Edwin Dair, Wenbin Jiang, and Cheng Ping Wei as joint inventors.

Petitioner has submitted a petition under 37 C.F.R. §1.48(a)[1] to correct the inventorship of this application by adding two

---

1 A grantable petition under 37 C.F.R. §1.48(a) requires:
(1) the petition fee as set forth in 37 C.F.R. §1.17(i);
(2) A request to correct the inventorship that sets forth the desired inventorship change;
(3) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(4) either an oath or a declaration by the actual inventor or inventors as required by 37 C.F.R. § 1.63 or as permitted by 37 C.F.R. §§ 1.42, 1.43 or § 1.47, and;
5) If an assignment has been executed by any of the original

individuals to the declaration. Petitioner has concurrently submitted a petition under 37 C.F.R. §1.47(a)[2], as one of the previously signing joint inventors has not executed the new declaration.

The petition under 37 C.F.R. §1.47(a):

With the present petition, Petitioner has included the petition fee, a declaration which has been executed by the inventors (including the two inventors who are being added pursuant to the petition under Rule §1.48(a), discussed below), the surcharge associated with the late submission of the same[3], and the last known address of non-signing inventor Cheng Ping Wei. As such, Petitioner has met requirements (1) - (3) of Rule §1.47(a).

Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. Petitioner has set forth that the non-signing joint inventor cannot be reached, and as such, Petitioner is required to establish that a diligent effort was made to locate the non-signing inventor. Petitioner has provided a copy of the search, and it is clear that the search was narrowly tailored to only search for records in the city of Gilbert, Arizona. It is plausible that Mr. Wei has since moved to another city or possibly even another state, and as such, the search was too narrow to constitute a diligent search, and as such, it does not appear that it was sufficiently broad so as to provide a reasonable chance of success.

---

named inventors, the written consent of the assignee.

2 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 C.F.R. §1.63.

3 Both the petition fee and this surcharge have been charged to Petitioner's Deposit Account, as authorized in the petition.

Regarding the fifth requirement, the declaration cannot be accepted as it has not been determined whether the address of the non-signing inventor which appears on the declaration is accurate.

Petitioner will need to perform a diligent search for the non-signing inventor. If diligent attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet continue to fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicant should submit documentary evidence such as the results of a diligent E-mail or Internet search.

For this reason, the petition under 37 C.F.R. §1.47(a) is **DISMISSED.**

The petition under 37 C.F.R. §1.48(a):

With the present petition, Petitioner has requested that Ronson K. Tan and Kee Sin Tan be added as joint inventors. Petitioner has submitted the petition fee[4], a request to correct the inventorship that sets forth the desired inventorship change, a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part, and the written consent of the assignee. As such, Petitioner has met requirements (1) - (3) of Rule §1.48(a).

Regarding the fourth and fifth requirements, see the discussion pertaining to the petition under 37 C.F.R. §1.47, discussed above.

For this reason, the petition under 37 C.F.R. §1.48(a) is **DISMISSED.**

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petitions Under 37 C.F.R. §§ 1.47(a) and 1.48(a)." This is not a final agency action within the meaning of 5 U.S.C 704.

---

4 The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[5], hand-delivery[6], or facsimile[7].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[8]. 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

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 (571) 273-8300- please note this is a central facsimile number.
8 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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ORLANDO FL 32802-3791

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OFFICE OF PETITIONS

In re Application of	:	
Ron Cheng Chuan Pang, Yong Peng	:	
Sim, Edwin Dair, Wenbin Jiang,	:	DECISION ON TWO RENEWED
and Cheng Ping Wei	:	PETITIONS UNDER 37 C.F.R.
Application No. 10/118,761	:	§§1.47(A) AND 1.48(A)
Patent No. 7,116,912	:	
Filed: April 8, 2002	:	
Issue Date: October 3, 2006	:	
Attorney Docket No. 3918P018	:	
Title: METHOD AND APPARATUS FOR	:	
PLUGGABLE FIBER OPTIC MODULES	:	

This is in response to the two renewed petitions submitted on November 3, 2006.

On April 8, 2002, the application was deposited with a fully executed declaration, identifying Ron Cheng Chuan Pang, Yong Peng Sim, Edwin Dair, Wenbin Jiang, and Cheng Ping Wei as joint inventors.

On June 15, 2006, Petitioner submitted a petition under 37 C.F.R. §1.48(a) to correct the inventorship of this application by adding two individuals to the declaration. Petitioner concurrently submitted a petition under 37 C.F.R. §1.47(a), as one of the previously signing joint inventors had not executed the new declaration. Each of these petitions was dismissed via the mailing of a decision on September 6, 2006.

The application matured into U.S. patent number 7,116,912 on October 3, 2006, and the present renewed petitions were filed the

following month on November 3, 2006. As such, these renewed petitions were filed subsequent to the issuance of the patent.

Consequently, the renewed petitions pursuant to 37 C.F.R. §§1.47(a) and 1.48 are each **DISMISSED AS UNTIMELY.**

Petitioner may wish to consider filing a petition under 37 C.F.R. §1.324.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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In re Patent No. 7,116,912
Issue Date: 10/03/2006
Appl. No.: 10/118,761
Filed: April 08, 2002
For: METHOD AND APPARATUS FOR PLUGGABLE FIBER OPTIC MODULES

DECISION DISMISSING PETITION
37 CFR 1.324

This is a decision on the petition filed 2/12/07 to correct inventorship under 37 CFR 1.324.

The petition is **dismissed.**

A petition to correct inventorship as provided by 37 CFR 1.324 requires (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part, **(2) a statement from the current named** inventors (including any "inventor" being deleted) who have not submitted a statement as per "(1)" **either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change,** (3) a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and (4) the fee set forth in 37 CFR 1.20(b). This petition lacks item(s) (2).

Note: the statutory basis for correction of inventorship in a patent under 37 CFR 1.324 is 35 U.S.C. 256. 35 U.S.C. 256 requires "on application of all the parties and assignees". Correction of inventorship in a patent under 37 CFR 1.324 requires petition of all the parties, i.e,, originally named inventors and assignees, in accordance with statue under 35 U.S.C. 256 and thus the requirement cannot be waived. Applicant might wish to consider filing a reissue application to correct the inventorship. See MPEP § 1412.04.

Jason Chan
Supervisory Patent Examiner
Art Unit 2613
Patent Examining Group TC2600

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.

1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

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ORLANDO FL 32802-3791

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SEP 0 7 2007

OFFICE OF PETITIONS

In re Patent No: 7,116,912 :
Issue Date: October 3, 2006 :
Application No. 10/118,761 : ON PETITION
Filed: April 8, 2002 :
Attorney Dck't. No. 3918P018 :

This patent is before this office due to the petition filed August 13, 2007, requesting under 37 CFR 1.183 waiver of the provisions of 37 CFR 1.324 which requires the approval of all parties, in order to amend the named inventive entity.

The petition is dismissed.

Petitioner points to the inability, notwithstanding diligent effort, to obtain the written approval of Cheng Ping Wei to the proposed change of inventorship during the pendency of the instant application as establishing an extraordinary situation. Petitioner further urges that the language of 35 U.S.C. § 256 does not preclude correction of the inventive entity of the instant patent, contrary to the holding in the TC decision on the petition under 37 CFR 1.324 mailed June 14, 2007.

STATUTE AND REGULATION

35 U.S.C. § 256 provides:

> Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his part, the Director may, **on application of all the parties and assignees**, with proof of the facts and such other requirements as may be imposed, issue a certificate correcting such error.
>
> The error of omitting inventors or naming persons who are not inventors shall not invalidate the patent in which such error occurred if it can be corrected as provided in this section. The court before which such matter is called in question may order correction of the patent on notice and hearing of all parties concerned and the Director shall issue a certificate accordingly (emphasis added).

37 CFR 1.324 provides:

> (a) Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without

any deceptive intention on his or her part, the Director, pursuant to 35 U.S.C. 256, may, on application of all the parties and assignees, or on order of a court before which such matter is called in question, issue a certificate naming only the actual inventor or inventors. A petition to correct inventorship of a patent involved in an interference must comply with the requirements of this section and must be accompanied by a motion under § 41.121(a)(2) or § 41.121(a)(3) of this title.

(b) Any request to correct inventorship of a patent pursuant to paragraph (a) of this section must be accompanied by:

(1) Where one or more persons are being added, a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on his or her part;

(2) A statement from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change;

(3) A statement from all assignees of the parties submitting a statement under paragraphs (b)(1) and (b)(2) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of § 3.73(b) of this chapter; and

(4) The fee set forth in § 1.20(b).

(c) For correction of inventorship in an application, see §§ 1.48 and 1.497.

(d) In a contested case before the Board of Patent Appeals and Interferences under part 41, subpart D, of this title, a request for correction of a patent must be in the form of a motion under § 41.121(a)(2) or § 41.121(a)(3) of this title.

OPINION

While the USPTO is willing to entertain petitions under 37 CFR 1.183 for waiver of various provisions of 37 CFR 1.48 to amend the inventive entity of a pending application, In re Cooper, 230 USPQ 638, 639 (Comm'r Pat. 1985), the USPTO does not have such discretionary authority after that application has, as here, issued as a patent. This is due to the differing provisions of the statutes which control, respectively, amendment of the inventive entity of a pending application (§ 116), and an issued patent (§ 256), as explained in MPEP 1481.02:

The statutory basis for correction of inventorship in a patent under 37 CFR 1.324 is 35 U.S.C. 256. It is important to recognize that 35 U.S.C. 256 is stricter than 35 U.S.C. 116, the statutory basis for corrections of inventorship in applications under 37 CFR 1.48. 35 U.S.C. 256 requires "on application of all the parties and assignees," while 35 U.S.C. 116 does not have the same requirement. Under 35 U.S.C. 116 and 37 CFR 1.48, waiver requests under 37 CFR 1.183 may be submitted (see, e.g., MPEP § 201.03, under the heading "Statement of Lack of Deceptive Intention"). This is not possible under 35 U.S.C. 256 and 37 CFR 1.324. In correction of inventorship in a nonprovisional

> application under 37 CFR 1.48(a), the requirement for a statement by each originally named inventor may be waived pursuant to 37 CFR 1.183; however, correction of inventorship in a patent under 37 CFR 1.324 requires petition of all the parties, i.e., originally named inventors and assignees, in accordance with statute (35 U.S.C. 256) and thus the requirement cannot be waived

Thus, the Director has no authority under the statute to effect a change in inventorship of a patent unless all the named inventors consent in writing. In re RCA Corp., 209 USPQ 1114 (Comm'r Pat. 1981). Since 37 CFR 1.183 cannot be invoked to the contrary of any statutory requirement, the request for waiver must be dismissed, as any favorable treatment of the petition would be contrary to the express requirement of the statute. See Baxter Int'l, Inc. v. McGaw, Inc., 149 F.3d 1321, 1334, 47 USPQ2d 1225, 1234-1235 (Fed. Cir. 1998)(the PTO cannot, by rule, or waiver of the rules, fashion a remedy that contravenes 35 U.S.C. §§ 112, 120); A. F. Stoddard v. Dann, 564 F.2d 556, 566, 195 USPQ 97, 105 (D.C. Cir 1977), (since the USPTO is an executive branch agency, it must follow the strict provisions of the applicable statute).

Assuming that all inventors, including the non-cooperating inventor have assigned their rights herein to the assignee of the entire interest, petitioner may submit the same issue before the USPTO in a reissue application. See MPEP §§ 1410.01; 1412.04. It is also noted, when the agreement of all parties is not reached on the issues of nonjoinder or misjoinder, the second paragraph of 35 USC § 256 permits amendment of a patent's inventive entity in federal court "on notice and hearing of all parties concerned". MCV Inc v. King-Seeley Thermos Co., 870 F.2d 1568, 10 USPQ2d 1287, 1289 (Fed. Cir. 1989); Pannu v. Iolab Corp., 155 F.3d 1344, 47 USPQ2d 1657 (Fed. Cir. 1998).

This patent is being referenced to the Technology Center to consider the request under 37 CFR 1.181 for reconsideration filed August 14, 2007, of the adverse decision on petition under 37 CFR 1.324 mailed June 14, 2007.

As a petition under 37 CFR 1.183 requires a fee of $400, rather than the $130 expressly mentioned, an additional $270 has been charged to deposit account # 50-1465 as authorized in the petition.

Inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

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HICKMAN PALERMO TRUONG & BECKER LLP
2055 GATEWAY PLACE, SUITE 550
SAN JOSE, CA 95110

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APR 04 2005

OFFICE OF PETITIONS

In re Application of	:	
Dinesh Das	:	
Application No. 10/118,762	:	DECISION ON PETITION
Filed: April 8, 2002	:	UNDER 37 CFR 1.314
Attorney Docket No. 50277-1850	:	

This is a decision on the petition under 37 CFR 1.314, filed September 10, 2004, to defer issuance of the instant application into a patent.

The petition is dismissed as moot.

Petitioner requests deferral of the issuance of the application in order to allow time for the Examiner to consider a pending amendment under 37 CFR 1.312, which was mailed on June 17, 2004.

Prior to reaching a decision on the instant petition, the application was withdrawn from issue under 37 CFR 1.313(b) by the Director of Technology Center 2100 on March 9, 2005. Accordingly, as the application has been withdrawn from issue, the petition to defer issuance is dismissed as involving a moot issue.

Inquiries concerning this decision on petition may be directed to the undersigned at (571) 272-3218.

This matter is being referred back to Technology Center AU 2165.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

TOWNSEND & TOWNSEND & CREW
TWO EMBARCADERO CENTER
8TH FLOOR
SA FRANCISCO, CA 94111-3834

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OCT 15 2002

OFFICE OF PETITIONS

In re Application of :
Lee A. Christel et al :
Application No. 10/118,810 : NOTICE
Filed: April 8, 2002 :
Attorney Docket No. 020048-002430US :

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).**

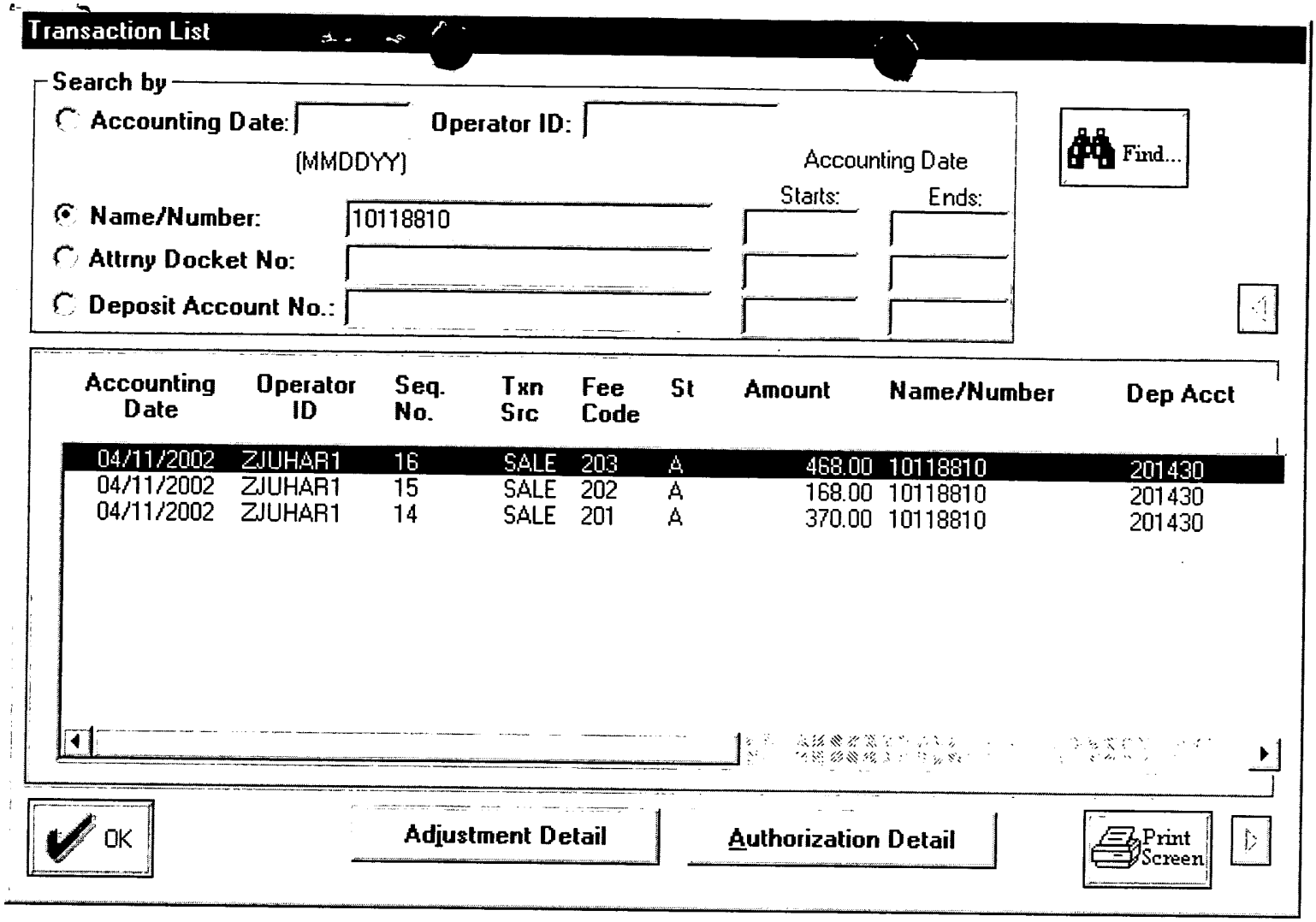
The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

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 1743.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Adjustment date: 10/02/2002  CNGUYEN
04/11/2002 ZJUHAR1  00000007 201430   10118810
01 FC:201          370.00 CR
02 FC:202          168.00 CR
03 FC:203          468.00 CR
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MAY 11 2005

OFFICE OF PETITIONS

In re Application of :
Bathey, Richard A. :
Application No. 10/118,838 : ON PETITION
Filed: April 9, 2002 :
Attorney Docket No. WENDN-002RCE :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 12, 2004, to revive the above-identified application. In view of the allegation in the petition of the non-receipt of the Office action, the petition will also be treated as a petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

This application became abandoned for failure to timely reply to the non-final Office action mailed December 3, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 4, 2004. A Notice of Abandonment was mailed July 2, 2004.

An allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must 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]

In the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because practitioner 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. Note MPEP 711.03(c).

The petition under 37 C.F.R. § 1.181 is **DISMISSED**.

The petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

Petitioner requests a refund of the petition fee. The relief requested in this petition cannot be granted because 35 U.S.C. 41(a)(7) provides that a petition for the revival of an unintentionally abandoned application must be accompanied by a petition fee of $665.00, unless the petition is filed under 35 U.S.C. § 133 or 151 on the basis of unavoidable delay. Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived.

This matter is being referred to Technology Center AU 3766 for further examination on the merits.

Telephone inquiries concerning this decision should be directed to Paralegal Liana Chase at (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE N. Flynn

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/118,864

Paper No.: _____

DATE : 6/24/05

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 6869838

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☒ **Denied**	State the reasons for denial below.

Comments:

Applicant indicate the references in question were lost (See the request for C of C) Further Applicant Submits the references in IDS of June 18/2002 by 6/16/05 ~~after~~ more than a year after NOA was issued. Further, applicant has not submitted any proof concerning the mailing of the references before allowance was issued and fails to indicate how the references were lost and who would've been responsible for

SPE _____ 2826 Art Unit

SPE: N. Flynn

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/19/06

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/118,864 Patent No.: 6869838

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: IDS filed before Notice of Allowance.

SUE A. PURVIS
SUPERVISORY PATENT EXAMINER

Sue A. P.
SPE

2826
Art Unit

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David Maher
McCutchen, Doyle, Brown & Enersen, LLP
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San Francisco CA 94111

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JUN 24 2003

OFFICE OF PETITIONS

Applicant: Morse et al.
Appl. No.: 10/118,865
Filing Date: April 8, 2002
Title: METHODS AND COMPOSITIONS FOR BINDING HISTIDINE-CONTAINING PROTEINS TO SUBSTRATES
Attorney Docket No.: 19629-7016
Pub. No.: US 2003/0003223 A1
Pub. Date: January 2, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on February 28, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the co-assignee information is missing from the front page of the publication. Applicant argues that an accused infringer must provide be provided with "actual notice" and that since there is not yet case law on what constitutes "actual notice", an accused infringer may argue that an Assignee not listed on the publication is not a "published applicant" and can not therefore give "actual notice" of infringement.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

While applicant argues that "actual notice" is not defined in case law, actual notice is defined as "notice given directly to, or received personally by, a party".[2] This is different from constructive notice, which is defined as "notice arising by presumption of law from the existence of facts and circumstances that a party had a duty to take notice of," such as a patent.[3] Applicant's argument that since it is unknown what constitutes "actual notice," failure to list an Assignee on a publication may prevent the Assignee from giving actual notice of infringement, since he is not a "published applicant," is not persuasive. In order to obtain a reasonable royalty from a person who makes, uses, offers for sale, or sells the invention, or imports the invention into the U.S., the person must have had "actual notice of the published patent application." See 35 U.S.C.

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

[2] Blacks Law Dictionary, 1087 (7th ed. 1999).

[3] Blacks Law Dictionary, 1088 (7th ed. 1999)

154(d)(1)(B). Nothing in the provisions related to actual notice mentions ownership of the invention, and ownership of the invention should not be relevant to "actual notice of the invention." This is because according to U.S. law, the applicant is not the assignee, the applicant is the inventor.[4] Furthermore, the assignment of a particular patent or published patent application publication frequently changes and thus the current assignees may not be not listed on the document. The failure to provide assignment information or incomplete assignment information on a patent application publications does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

It is noted that the assignment information was not provided on the transmittal letter or on an application data sheet (37 CFR 1.76). The Office generally prints the assignee information as reflected on the transmittal letter or application data sheet, if provided by applicant and does not look at the assignment records for the assignment information.[5]

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1621 to await further examination in due course.

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

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[4]See 35 U.S.C. §§ 115, 116

[5]See Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

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Third Floor
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San Jose CA 95113

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APR 22 2005

OFFICE OF PETITIONS

In re Application of :
Cheng, et al. :
Application No. 10/118,885 : DECISION ON PETITION
Filed: April 8, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 03226/527002; P6856 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 6, 2004 (certificate of mailing date December 2, 2004) and supplemented on December 7, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant 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. 60/310,528, which was filed on August 6, 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 Petitions Attorney E. Shirene Willis at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2177 for appropriate action on the amendment submitted December 7, 2004, 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. 60/310,528.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037

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APR 12 2005

OFFICE OF PETITIONS

In re Application of :
Yoshihiro Harada et al :
Application No. 10/118,902 : DECISION GRANTING PETITION
Filed: April 10, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q69269 :

This is a decision on the petition, filed April 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2834 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Alexandria, VA 22313-1450
www.uspto.gov

Dr. Mark Friedman Ltd.
c/o Discovery Dispatch
9003 Florin Way
Upper Marlboro MD 20772

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JUN 13 2008

OFFICE OF PETITIONS

In re Application of :
KAGAN et al. :
Application No. 10/118,941 : DECISION ON PETITION
Filed: 04/10/2002 :
Attorney Docket No. 3891-0107P :

This is a decision on the petition filed May 5, 2008, to withdraw the holding of abandonment in the above-identified application.

On August 29, 2006, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. On February 27, 2007, petitioners submitted a Request for Continued Examination (RCE) (and fee) and a request for an extension of time for response within the third month (and fee). On March 13, 2007, the Office mailed a Notice of Improper Request for Continued Examination (RCE), indicating that the RCE filed on February 27, 2007, was improper because the request was not accompanied by a submission as required by 37 CFR 1.114. The Notice further stated that as the application was not under appeal, the time period set forth in the final Office action continued to run from the mailing date of that action. Thereafter, on April 9, 2008, the Office mailed a Notice of Abandonment.

In the present petition, petitioners assert that they filed a response to the Notice of Improper Request for Continued Examination on April 19, 2007, as evidenced by their date-stamped postcard receipt. Additionally, petitioners averred that the RCE was filed with the appropriate fee and extension fees, as evidenced by the Electronic Fee Transmittal, which shows payment of $905.00 ($395.00 for filing the RCE and $510.00 for the extension of time for response).

The mailing of a Notice of Improper Request for Continued Examination did not toll or re-start the period for response to the final Office action of August 29, 2006. Petitioners were required to submit a complete and proper reply, accompanied by a request for an extension of time within the third month, no later than February 28, 2007. However, a review of the record reveals that petitioners did not file a submission with the RCE and the request for an extension of time within the third month on February 27, 2007.

The Office notes that if an applicant timely files a RCE with the required fee and a submission that meets the reply requirements of 37 CFR 1.111, the Office will withdraw the finality of any Office action to which a reply is outstanding and the submission will be entered and considered. See 37 CFR 1.114(d). The submission meeting the reply requirements of 37 CFR 1.111 must be timely received to continue prosecution of an application. In other words, the mere request for, and payment of the fee for, continued examination, such as in this instance, will not operate to toll the running of the period for reply set in the final Office action to avoid abandonment of the application.

As stated in MPEP 706.07(h)(II):

> A "submission" as used in 37 CFR 1.114 includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. See 37 CFR 1.114(c). If a reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of 37 CFR 1.111. See 37 CFR 1.114(c). Thus, an applicant may file a submission under 37 CFR 1.114 containing only an information disclosure statement (37 CFR 1.97 and 1.98) in an application subject to a notice of allowance under 35 U.S.C. 151, but not in an application where the last Office action is a final rejection or an Office action under Ex parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935), or in an application that is under appeal. A request for a suspension of action, an appeal brief or a reply brief (or related papers) will not be considered a submission under 37 CFR 1.114. See 37 CFR 1.103 and 1.114(d). The submission, however, may consist of the arguments in a previously filed appeal brief or reply brief, or may simply consist of a statement that incorporates by reference the arguments in a previously filed appeal brief or reply brief. In addition, a previously filed amendment after final (whether or not entered) may satisfy this submission requirement.
>
> Arguments submitted after final rejection, which were entered by the examiner but not found persuasive, may satisfy the submission requirement if such arguments are responsive within the meaning of 37 CFR 1.111 to the Office action. Consideration of whether any submission is responsive within the meaning of 37 CFR 1.111 to the last outstanding Office action is done without factoring in the "final" status of such outstanding Office action. Thus, a reply which might not be acceptable as a reply under 37 CFR 1.113 when the application is under a final rejection may be acceptable as a reply under 37 CFR 1.111.

The Office does not dispute receiving the RCE (and fee) and the request for extension of time for response within the third month (and fee) on February 27, 2007. However, as stated above, petitioners were required to file a submission no later than February 28, 2007, to avoid abandonment of the application.

Thus, the application is currently abandoned due to petitioners' failure to submit a proper response to the final Office action. Accordingly, the petition is **dismissed**.

The application will remain in its abandoned state until petitioners file a petition to revive the application, a petition fee, and a proper submission under 37 CFR 1.114. Petitioners do not need to re-submit the RCE and the RCE fee on filing a petition to revive under 37 CFR 1.137(b) or a "Renewed Petition Under 37 CDR 1.181."

Any request for reconsideration must be submitted within TWO MONTHS of the mailing date of this decision. No extensions of this time period are available. See 37 CFR 1.181(f). The request for reconsideration of this decision should be entitled "Renewed Petition Under 37 CFR 1.181."

In the alternative, the Office encourages petitioners to file a petition under 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 § 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 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).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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GREENBLUM & BERNSTEIN PLC
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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FEB 10 2004

OFFICE OF PETITIONS

In re Application of
Michael SCHWARZ
Application No. 10/118,951
Filed: April 10, 2002
Attorney Docket No. P22139

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed February 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 12, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The file will be referred to Technology Center AU 1731 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed .

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO, CA 92130-2332

MAILED

JUN 0 5 2005

Technology Center 2100

In re Application of:
Robert P. SOLMER, et al.
Application No.: 10/118,968
Filed: April 8, 2002
For: EFFICIENT METHOD FOR INFORMATION EXTRACTION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed April 11, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: John R. King
Knobbe, Martens, Olson & Bear LLP
2040 Main Street
14th Floor
Irvine, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

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Date Mailed : November 15, 2006
Serial No. :10/118978
Patent No. :6,680,461 B2
Patent Issued :January 20, 2004
Title :NOZZLE SYSTEM FOR LASE MACHINING

Re: Request for Re- consideration Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

Respecting the alleged errors noted in your request letter dated 11/3/03 states that this reference JP#63-086003 was never received by the office and hence could not be initiated on the 1449.

In view of the foregoing your request is again hereby denied.

Magdalene Talley
For Cecelia B. Newman, Supervisor
Decisions and Certificate
Of Correction Branch
(703)308-9390 ext. 116
Fax (571) 270-9942

Staas & Halsey LLP
1201 New York Ave., NW, Ste. 700
Washington, DC 20006

CBN/mt

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Paper No.

YOUNG & THOMPSON
209 Madison Street
Suite 500
ALEXANDRIA VA 22314

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JUN 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Bernard Zimmern	:	
Application No. 10/119,021	:	
Patent No. 6,767,524	:	DECISION ON PETITION
Filed: April 10, 2002	:	UNDER 37 C.F.R. § 1.378(C)
Issue Date: July 27, 2004	:	
Attorney Docket Number: 0539-1001	:	
Title: PROCESS TO PRODUCE NEARLY OIL FREE COMPRESSED AMMONIA AND SYSTEM TO IMPLEMENT IT	:	

This is a decision on the petition filed pursuant to 37 C.F.R. § 1.378(c) on March 16, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This petition pursuant to 37 C.F.R. § 1.378(c) is **GRANTED**.

The patent issued on July 27, 2004. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on July 27, 2008, with no payment received. Accordingly, the patent expired on July 27, 2008 at midnight.

A grantable petition pursuant to 37 C.F.R. § 1.378(c) must be accompanied by:

(1) The maintenance fee as set forth in 37 C.F.R. §§ 1.362(e) and 1.20;
(2) The surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee, as set forth in 37 C.F.R. § 1.20;
(3) A statement that the delay was unintentional from a proper party in interest, and;
(4) The petition must be filed within 24 months of the date of expiration.

With this petition, Petitioner submitted the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. This petition was timely filed within twenty-four months after the expiration of the six-month grace period.

Petitioner has met each of the requirements of Rule 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[1]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee pursuant to 37 C.F.R. § 1.378(c) was intentional, Petitioner must notify the Office.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Wayne Wehber
Vilter Manufacturing LLC
5555 South Packard Avenue
Cudahy, WI 53110-8904

1 See 37 C.F.R. § 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

GRE

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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OFFICE OF PETITIONS

In re Application of :
Hiroshi Hanaoka et al :
Application No. 10/119,075 : ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. 381NP/44787C2 :

This is a decision on the petition, filed November 30, 2004, and supplemented on December 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3748 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).

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INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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OFFICE OF PETITIONS

In re Application of :
Hiroshi Hanaoka et al :
Application No. 10/119,075 : ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. 381NP/44787C2 :

This is a decision on the petition, filed November 30, 2004, and supplemented on December 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3748 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).

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THOMAS L. KAUTZ
HOLLAND & KNIGHT LLP
SUITE 1300
ONE EAST BROWARD BLVD.
FORT LAUDERDALE, FL 33301

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OFFICE OF PETITIONS

In re Application of :
Leo J. Yodock, et al. :
Application No. 10/119,130 : ON PETITION
Filed: April 2, 2002 :
Attorney Docket No. 49737.13 :

This is a decision in response to the petition, filed November 22, 2004, to revive the above-identified application under 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 December 30, 2003. A Notice of Abandonment was mailed on September 20, 2004.

In response, on November 22, 2004, the present petition was filed. Petitioner states that a response was timely filed; however, the response was directed to an incorrect application number. Petitioner has provided a copy of the response, including the correct application number, as well as a copy of the response filed on March 8, 2004. Petitioner states that "[t]he response never made it to the subject file, resulting in the unintentional abandonment of this case."

If a paper having an incorrect application number contains sufficient information to identify the correct application, the paper would be associated with the correct application in accordance with MPEP 508.03. Upon review of the March 8, 2004 response, it is noted that the wrong application number, filing date, and title of the invention is captioned. The inventors were listed as "Yodock et al." Accordingly, there was not sufficient information to associate the paper with the correct application.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application file is being forwarded to Technology Center AU 3673 for consideration of the amendment filed November 22, 2004.

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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA, VA 22313-14304

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OFFICE OF PETITIONS

In re Patent No. 6,927,319
Issue Date: August 9, 2005
Application No. 10/119,194
Filed: April 10, 2002
Attorney Docket No. 032930-002

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed August 12, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 9, 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The patent file is being forwarded to Files Repository.

/Diane C. Goodwyn/
Petitions Examiner
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)
6870482	2005-03-22	10119196	2002-04-10	066479.0111

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 B. Arpin/	Date (YYYY-MM-DD)	2009-05-13
Name	James B. Arpin	Registration Number	33470

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6870482
Issue Date: March 22,2005
Application No. 10119196
Filed: April 10,2002
Attorney Docket No. 066479.0111

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 13,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 13,2009 . 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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ALEXANDRIA, VA 22313-1450
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Paper No. 9

Brian H. Buck
Patent Department
DEERE & COMPANY
One John Deere Place
Moline IL 61265-8098

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OCT 0 9 2003

OFFICE OF PETITIONS

In re Application of

Wright, et al.

Application No. 10/119,233

Filed: May 9, 2002

Attorney Docket No. 15737-US

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), September 29, 2003, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed May 29, 2003. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on August 30, 2003.

The issue fee of $1300.00 was received on September 29, 2003.

A Request for Continued Examination and Information Disclosure Statement were also received on September 29, 2003, and are made of record.

The application is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.

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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DANIEL A. SCOLA, JR., ESQ.
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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APR 13 2009

OFFICE OF PETITIONS

In re Application of :
Scott Smith :
Application No. 10/119,236 : DECISION ON PETITION
Filed: April 9, 2002 : TO WITHDRAW
Attorney Docket No. 760-17 CPA CON : 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 17, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the practitioners were not appointed by customer number. In order to withdraw by customer number, practitioners 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. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: BOSTON SCIENTIFIC SCHIMED, INC
ONE SCHIMED PLACE
MAPLE GROVE, MN 55311-1566

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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PETERS VERNY JONES & SCHMITT, L.L.P.
425 SHERMAN AVENUE
SUITE 230
PALO ALTO CA 94306

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AUG 2 3 2005

OFFICE OF PETITIONS

In re Patent No. 6,911,056	:	
Issued: June 28, 2005	:	
Application No. 10/119,237	:	ON PETITION
Filed: April 8, 2002	:	
Attorney Docket No. 2960.54-4	:	

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**. Office records will be updated to reflect the change in entity status.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

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OCT 1 2 2006
OFFICE OF PETITIONS

In re Application of :
Barenberg et al. :
Application No. 10/119,245 : DECISION ON PETITION
Filed: April 9, 2002 :
Attorney Docket No. BTEC 9678 :

This is a decision on the petition under 37 CFR 1.137(b), filed on March 2, 2006, to revive the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on its merits. The Office apologizes for any inconvenience.

The application became abandoned on December 3, 2004, for failure to file a timely and proper response to the final Office action mailed on September 2, 2004, which set a three (3) month shortened statutory period for reply. On March 18, 2005, the Office mailed a Notice of Abandonment.

In the present petition, 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 a request for continued examination and a submission, paid the requisite fees, and made the proper statement of unintentional delay.

Petitioner submitted a $510.00 extension of time fee with the present petition. Pursuant to 37 CFR 1.136, a request for an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Therefore, the $510.00 extension of time fee is inappropriate and will be credited to petitioner's Deposit Account.

This matter is being referred to Technology Center Art Unit 1744.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

C.T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE
6300 SEARS TOWER
CHICAGO, IL 606060

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MAY 02 2007

OFFICE OF PETITIONS

In re Application of :
Charles Theodore Orleskie et al :
Application No. 10/119,283 : DECISION GRANTING PETITION
Filed: April 9, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 171.5050 :

This is a decision on the petition, filed April 30, 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 March 16, 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 2855 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\May10\119283.wpd

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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DARBY & DARBY P.C;
P.O. BOX 5257
NEW YORK, NY 10150-5257

In re Application of	:	
Greene et al.	:	
Application No. 10/119288	:	
Filing or 371(c) Date: 04/08/2002	:	
Attorney Docket Number:	:	
4040/1K397-US1	:	ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action, filed February 8, 2007. The petition is properly treated under 37 CFR 1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed June 12, 2006. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on September 13, 2006. A Notice of Abandonment was mailed January 9, 2007.

With the instant petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence[1].

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 1642 for re-mailing of the Office action.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

[1] A review of Office records reveals that the Office action was inadvertently mailed to an incorrect correspondence address.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/21/2010

Applicant	: Mark I. Greene	: DECISION ON REQUEST FOR
Patent Number	: 7638598	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/119,288	: 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 **1410** 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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DICKSTEIN SHAPIRO MORIN & OSHINSKY
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
41 ST FL.
NEW YORK NY 10036-2714

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AUG 1 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Kenichi Shirasaka	:	
Application No. 10/119,315	:	ON PETITION
Filed: April 10, 2002	:	
Attorney Docket No. X2007.0100/0US0	:	

This is a decision on the petition, filed August 5, 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 June 1, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2827 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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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Alexandria, VA 22313-1450
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Paper No. 080404

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

AUG 24 2004

In re Application of:
DEXTER G. GIRTON
Serial No.: 10/119,317
Filed: April 10, 2002
Attorney Docket No.: **040092-013810US**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 18, 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 of McDermott, Will & Emery was filed on April 6, 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.

It is noted that the application is now abandoned.

All future communications from the Office will continue to 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: MARK J. ITRI
MCDERMOTT, WILL & EMERY
18191 VON KARMAN AVE., SUITE 400
IRVINE, CA 92612-0187

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDERMOTT WILL & EMERY LLP
18191 VON KARMAN AVE.
IRVINE CA 92612-7107

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OFFICE OF PETITIONS

In re Application of
Dexter George Girton et al. :
Application No. 10/119,317 : ON PETITION
Filed: April 10, 2002 :
Attorney Docket Number: 040092-13810US :

This is a decision on the petition under 37 CFR 1.137(b), filed October 29, 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 September 26, 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 December 29, 2003. Accordingly, a Notice of Abandonment was mailed April 7, 2004.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

This application is being forwarded to Technology Center 2829 for appropriate action on the amendment filed October 29, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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Paper No. 18

PETERS VERNY JONES & SCHMITT
385 SHERMAN AVENUE
SUITE 6
PALO ALTO CA 94306

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OFFICE OF PETITIONS

In re Application of
Bernard D. Santarsiero et al
Application No. 10/119,332
Filed: April 8, 2002
Attorney Docket No. 22700-739

ON PETITION

This is a decision on the petition, filed by facsimile transmission on October 31, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 30, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1754 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).

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HIMANSHU S. AMIN
AMIN & TUROCY, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST 9TH STREET
CLEVELAND, OH 44114

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NOV 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Darlene G. Hamilton et al :
Application No. 10/119,366 : ON PETITION
Filed: April 8, 2002 :
Attorney Docket No. G0861 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 2004, to revive the above-identified application. The Notice of Allowance and Fee(s) Due mailed on April 8, 2004 is vacated.

The petition is DISMISSED as MOOT.

The above-identified application was held abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed April 8, 2004, which set a statutory period for reply of three (3) months.

The $1,370.00 petition fee has been credited to Deposit Account No. 50-1063.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
Walter H. Johnson, Torsten Borchers, Daniel Griffing, Andrei Danet, George Erskine	:	
Application No. 10/119,377	:	DECISION GRANTING
Filed: April 9, 2002	:	PETITION
Attorney Docket No. 5589-02501	:	

This is a decision on "Petition Under 37 CFR §1.47(a)", filed February 19, 2004, which is being treated as a §183 waiver of §131's requirement that all of the inventors sign the declaration of prior inventorship.[1]

The petition under 37 CFR 1.183 is **GRANTED**.

The above-identified application was filed on April 9, 2002. Applicants submitted a 37 CFR 1.63 declaration signed by all of the inventors on August 22, 2002. A non-final Office action was mailed on October 7, 2003. This office action set a shortened statutory period for reply of three months.

In response, on February 19, 2004, applicants submitted a reply and a declaration under 37 CFR 1.131, made timely by obtaining a two month extension of time. The 37 CFR 1.131 declaration stated that all of the inventors were responsible for reduction to practice of the subject matter of the rejected claims prior to the date of the reference on which the October 7, 2003 rejection was based. However, the 37 CFR 1.131 declaration was only signed

[1] 37 CFR 1.47 only applies when an inventor refuses to sign the 37 CFR 1.63 oath or declaration.

by joint inventors Johnson, Borchers, and Erskine. Applicants have filed the instant petition to have the 37 CFR 1.131 declaration entered despite the fact that the declaration was not signed by joint inventors Griffing and Danet. According to applicant, Griffing and Danet did not sign the 37 CFR 1.131 declaration despite having been presented with the papers.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the **inventor** of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.[2]

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."[3]

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, the instant application is not the subject of a patent under reexamination. Moreover, it has not been shown that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the only party eligible to sign the 37 CFR 1.131 declaration are joint inventors Johnson, Borchers, Griffing, Danet, and Erskine.

With the instant petition, applicants have set forth the steps taken to secure the signatures on the 37 CFR 1.131 declaration from joint inventors Griffing and Danet. According to petitioner, Griffing and Danet were mailed the 37 CFR 1.131 declaration on February 19, 2004. Included with the petition is a copy of the cover letter transmitting the 37 CFR 1.131 declaration. According to petitioner, no response from Griffing and Danet was received.

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

The 37 CFR 1.131 declaration was required to be signed by joint inventors Johnson, Borchers, Griffing, Danet, and Erskine. However, only Johnson, Borchers, and Erskine executed the declaration. Applicants have demonstrated that a *bona fide* effort was made to secure the signatures of joint inventors Griffing and Danet. Accordingly, it is concluded that applicants have demonstrated that this is an extraordinary situation requiring waiver of the rules.

---

[2] 37 CFR 1.131(a) (emphasis added).

[3] MPEP 715.04.

The 37 CFR 1.131 declaration will be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied.

The application file is being forwarded to Group Art Unit 2858 for consideration of the reply and the 37 CFR 1.131 declaration, filed February 19, 2004.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JANAH & ASSOCIATES
650 DELANCEY STREET, SUITE 106
SAN FRANCISCO, CA 94107

COPY MAILED

FEB 20 2008

OFFICE OF PETITIONS

In re Application of	:	
Hong Wang et al.	:	
Application No. 10/119,382	:	DECISION ON PETITION
Filed: April 8, 2002	:	
Attorney Docket No. 006771 USA/CPS/IBSS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 14, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 14, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed December 13, 2004. Accordingly, the date of abandonment of this application is March 15, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on March 15, 2005. That party, in turn must explain what effort(s) was made to further reply to the Notice and, further, why no response was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as the appointed attorneys in the Oath were counsels of record at the time of abandonment, an explanation is required as to why this application became abandoned while it was under their control and what efforts were made by the appointed attorneys to further reply of itself and with whom this matter was discussed outside of Applied Materials Inc. Copies of any correspondence relating to the filing, or to not filing, a further reply to the outstanding Office action are required from responsible person(s), appointed attorneys and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Applied Materials, Inc., and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The

December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Applied Materials Inc. and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

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JUN 26 2006
OFFICE OF PETITIONS

In re Application of	:	
Failli et al.	:	
Application No. 10/119,453	:	DECISION ON
Filed: April 10, 2002	:	PETITION
Attorney Docket No. 7015	:	

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT - OFFICE ACTION NOT RECEIVED filed February 6, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed May 31, 2005. This Notice set a three month shortened statutory period for reply, with extensions of time obtainable under 37 CFR §1.136(a). No reply having been received and no extensions obtained, the above-identified application became abandoned effective September 1, 2005. A courtesy Notice of Abandonment was mailed on December 27, 2005.

In response, applicants filed the instant petition, asserting that the Office action was never received and requesting that the holding of abandonment be withdrawn.

A review of the application file reveals no irregularities in the mailing of the Office action mailed May 31, 2005. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The showing required to establish non-receipt of an Office communication must include a statement

from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, 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.

Petitioner has supported his claim of non-receipt with such evidence.

In view thereof, the notice of abandonment mailed December 27, 2005 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1625 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the non-final Office action mailed May 31, 2005 and for restarting of the period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 8

Mathews Collins Shepherd & McKay
100 Thanet Circle, Suite 306
Princeton, NJ 08540

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DEC 2 4 2002

OFFICE OF PETITIONS

In re Application of :
Muller G. et al. :
Application No. 10/119,486 : ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. 11290-186/7/9.1.2A US :

This is a decision on the petition under 37 CFR 1.137(b), filed, December 4, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final rejection mailed May 23, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the application became abandoned on August 24, 2002.

The application is being forwarded to Technology Center AU 1625 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 4

WILLIAM O. ISSACS, II, ESQ.
KING & SPALDING
45TH FLOOR
191 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30303

MAIL

OCT 1 8 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Lonnie D. Lindsey :
Application No. 10/119,495 : DECISION ON REQUEST TO
Filed: April 10, 2001 : WITHDRAW AS ATTORNEY
For: SYSTEM AND METHOD FOR :
PRECONDITIONINGANALOG VIDEO :
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 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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

KING & SPALDING LLP
191 PEACHTREE STREET, N.E.
45TH FLOOR
ATLANTA, GA 30303-1763

In re application of:
Lonnie D. Lindsey
Application No. 10/119,495
Filed: April 10, 2002
For: SYSTEM AND METHOD FOR PRECONDITIONING ANALOG VIDEO SIGNALS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on April 11, 2005.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents listed in the withdrawal have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Richard Cusick, Esq.
Cyber Operations, LLC
Attn: Legal Department
153 Cahaba Valley Parkway
Pelham, Alabama 35124

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Paper No. 5

DENNIS L. COOK
FOWLER WHITE BOGGS BANKER
SUITE 1700
501 EAST KENNEDY BLVD.
TAMPA, FL 33602

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NOV 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Joseph A. Bobier :
Application No. 10/119,496 : ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. P003525-04UT :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on November 7, 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 April 21, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 22, 2003.

Pursuant to petitioner's authorization, Deposit Account No. 50-0864 was charged $1,330.00 for the petition to revive an unintentionally abandoned application.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 2821.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JJGJr.:08-02

Paper 6

ATTN: MCMR-JA (MS. ARWINE)
ELIZABETH ARWINE, ESQ.
US ARMY MEDICAL RESEARCH & MATERIAL COMMAND
504 SCOTT STREET
FORT DETRICK MD 21701-5012

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AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of
Jackson, et al.
Application No.10/119,502
Filed: 10 April, 2002
Attorney Docket No.MRMC.PA.02.01

ON PETITION

This is a decision on the petition filed on 12 July, 2002, under 37 C.F.R. §1.183,[1] and supplemented on 28 August, 2002, requesting a waiver of the requirement that excessive text be removed from the formal drawing.

The petition is **DISMISSED as moot**.[2]

The record indicates that:

- in response to the Notice to "File Corrected Application Papers" mailed on 5 May, 2002, Petitioner filed on 12 July, 2002, a request and fee for a one- (1-) month extension of time, a corrected drawing to satisfy margin requirements, and the instant petition;
- Petitioner avers that the drawing depiction of the cholesterol synthesis pathway of necessity requires substantial descriptive language, and thus is "necessary for the understanding of the subject matter to be patented," and so to satisfy statutory and regulatory requirements for the application;
- upon Draftsman's review, the drawing was approved as submitted with corrected margins but the content as originally filed.

Accordingly, the petition under 37 C.F.R. §1.183 is dismissed as moot

This application is being forwarded to OIPE for completion of initial processing there, and thereafter to be forwarded for examination in due course.

---

[1] The regulations at 37 C.F.R. §1.183 provide:

§1.183. Suspension of the rules.
In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17(h).
[47 Fed. Reg. 41278, Sept.17, 1982, effective Oct.1,1982]

[2] Pursuant to Petitioner's authorization, the fee for the petition, necessitated by the Applicant, is charged to Deposit Account 21-0380.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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www.uspto.gov

Paper No. 8

Paul M. Denk
763 South New Ballas Road
St. Louis MO 63141

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FEB 12 2004

OFFICE OF PETITIONS

In re Application of :
His-Yu Huang :
Application No. 10/119,505 : ON PETITION
Filed: April 9, 2002 :
Attorney Docket No. 7250 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 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)."

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 20, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 21, 2002.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for

failure to prosecute, the required reply may be met by the filing of a continuing application. In an application, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (2) above.

The required petition fee is $665.00. Petitioner has submitted $640.00. As such, a balance due of $25.00 remains. Accordingly, the petition cannot be reviewed on the merits until the required petition fee is paid in full.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 10

Paul M. Denk
763 South New Ballas Road
St. Louis MO 63141

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MAR 17 2004

OFFICE OF PETITIONS

In re Application of :
His-Yu Huang :
Application No. 10/119,505 :
Filed: April 9, 2002 :
Attorney Docket No. 7250 :

ON PETITION

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed February 23, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 20, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 21, 2002.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No. 5

Steven J. Funk
Sprint Corporation
Mailstop: KSOPHT0101-Z2100
6931 Sprint Parkway
Overland Park KS 66251-2100

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JUL 0 8 2003

OFFICE OF PETITIONS

In re Application of
Money et al.
Application No. 10/119,508
Filed: April 10, 2002
Attorney Docket No. 1742

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(f)

This is a decision on the "Petition to Revive under 37 C.F.R. § 1.137(b)," filed May 14, 2003, which is properly treated as a petition to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on March 10, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country[1].

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

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[1] A Rescission of Nonpublication Request was filed on March 17, 2003. However, it was not accompanied by a Notice of Foreign Filing.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of October 16, 2003 accompanies this decision on petition.

The application is being forwarded to Technology Center 2683 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Nancy Johnson
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request
(1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 12

MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK KS 66251-2100

In re Application of
Jesse Money, et al.
Application No. 10/119, 508
Filed: April 10, 2002
For: **METHOD AND SYSTEM FOR REAL-TIME TIERED RATING OF COMMUNICATION SERVICES**

DECISION ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment filed August 9, 2004, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond in a timely manner and effective manner to the Office communication mailed December 2, 2003. A Notice of Abandonment was mailed July 28, 2004.

Petitioner alleges to have timely filed a response to said Office communication on December 17, 2003. In support thereof, Petitioner provided evidence in the way of a copy of the Office communication that established the facsimile number used for transmitting the alleged response; a copy of sender's facsimile transmission confirmation summary and a copy of the response filed December 17, 2003 which included a certificate of transmission signed by the Petitioner.

A review of the file records reveals that the original amendment filed on December 17, 2003 has been located and matched with the file. The facsimile cover letter itemized reply to the Office communication of December 2, 2003, which set a one month time limit for response. Although the facsimile transmission report does not reflect the Office's official facsimile number, it has been determined that facsimile number used by applicants is a facsimile number associated with the U.S. Patent and Trademark Office. The transmittal report further evidences that the items listed on the cover letter were successfully transmitted on December 17, 2003. Therefore, it is concluded that the papers were timely filed via facsimile transmission in compliance with the requirements of 37 CFR 1.8(a)(1).

In view of the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Any inconvenience caused petitioner is regretted.

The petition is **GRANTED.**

The application file is being forwarded to the Technology Center's technical support staff for entry of the December 17, 2003 response. From there, the file will be forwarded to the examiner for further action in due course.

Petitioner is reminded that the Official Facsimile Number for all incoming correspondence to the Office is (703) 872-9306. Petitioner may want to note this number in order to avoid any future correspondence problems.

Dwayne D. Bost
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

Hamilton, Brook, Smith
530 Virginia Road
P.O. Box 9133
Concord, MA 01742-9133

COPY MAILED

JUN 07 2007

OFFICE OF PETITIONS

In re Application of :
James A. Proctor, Jr. :
Application No. 10/119,522 : DECISION ON PETITION
Filed: April 9, 2002 : TO WITHDRAW
Attorney Docket No. 2479.2090-001 : 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 8, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Hamilton, Brook, Smith & Reynolds, P.C. has been revoked by the assignee of the patent application on February 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Volpe and Koeing, P.C.**
Dept. ICC
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 91614

COPY MAILED

AUG 2 9 2002

OFFICE OF PETITIONS

In re Application of
Douglas, et al.
Application No. 10/119,525
Filed: April 8, 2002
Atty. Dkt. No.: ENDOLOG.014C1
Title: SELF EXPANDING
BIFURCATED ENDOVASCULAR
PROSTHESIS

: DECISION REFUSING
: STATUS UNDER 37 CFR
: 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed April 8, 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 and petition under 37 CFR 1.47(a) were filed April 8, 2002 naming Myles S. Douglas, Gilbert Madrid, and Mehrdad M. Shokoohi as joint inventors.

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 items (1), (2), and (3) set forth above. Petitioner has failed to establish that the inventor received the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration.

The declaration of Michael Henson indicates that on January 5, 1998, the legal representative of the non-signing inventor was sent a copy of the patent application and oath for application No. 09/100,481.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor.

Application No. 10/119,525

Petitioner has presented no evidence that the non-signing inventor was ever presented with a copy of the application papers (specification, claims, drawings, oath or declaration) for the instant application. While the declaration of Michael Henson references a verbal refusal to execute a declaration in a prior application, there is no indication that the inventor ever received the application papers for the instant application and thereafter refused to execute the declaration.

Any renewed petition should be accompanied by evidence to sufficiently establish that the non-signing inventor either cannot be located or that the non-signing inventor was sent a complete copy of the application papers and thereafter refused to execute the declaration. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney. Petitioner may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

However, petitioner is advised that if Rule 47 status has been accorded in a prior application in a previous decision on petition, petitioner may submit a copy of the decision upon renewed petition in accordance with 37 CFR 1.47(c).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn.: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 91614

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OCT 3 1 2002

OFFICE OF PETITIONS

In re Application of
Douglas, et al.
Application No. 10/119,525
Filed: April 8, 2002
Atty. Dkt. No.: ENDOLOG.014C1
Title: SELF EXPANDING
BIFURCATED ENDOVASCULAR
PROSTHESIS

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed April 8, 2002.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 09/100,481, filed June 19, 1998, of which the instant filing is a continuation application. Furthermore, a copy of the decision, mailed December 2, 1999, granting a petition to accord § 1.47(a) status to the prior application has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this continuation application.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

The required petition fee of $130.00 has been charged to Deposit Account No. 11-1410.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BAKER BOTTS, LLP
910 LOUISIANA
HOUSTON, TX 77002-4995

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OFFICE OF PETITIONS

In re Patent No. 6,777,791 :
Issue Date: August 17, 2004 :
Application No. 10/119,559 : DECISION ON PETITION
Filed: April 10, 2002 : UNDER 37 CFR 1.378(c)
Attorney Docket No. **1005-0017** :

This is a decision on the petition under 37 CFR 1.378(c), filed August 27, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This patent expired at midnight on August 17, 2008 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR I.362(e), the petition was timely filed under the provisions of 37 CFR I.378(c).

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified patent. However, in accordance with 37 CFR 1.34(a), the signature of Erik O. Berger appearing on the petition shall constitute a representation of the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

Further, 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.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

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.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON P.C.
3300 DAIN RAUSCHER PLAZA
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of :
Wei-Zhong Li et al :
Application No. 10/119,570 : DECISION GRANTING PETITION
Filed: April 9, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 13854-011001 :

This is a decision on the petition, filed July 2, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on April 9, 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 November 4, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5685.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 23 2003

Paper No. 6

In re Application of :
Jesse G. Smith : DECISION ON PETITION
Application No. 10/119,580 :
Filed: June 16, 2003 :
Attorney Docket No. JS-0001

This is a decision on the petition filed on June 16, 2003 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to timely file a proper reply to the Office letter mailed on August 16, 2002. The petition is considered under 37 CFR 1.181 and no fee is required.

The petition is dismissed.

Petitioner alleges that a timely reply to the Office letter in question was in fact filed. While petitioner references Exhibit "A" in support of this allegation, Exhibit "A" is not attached to the petition. Therefore, petitioner's evidentiary showing cannot be evaluated.

Petitioner may file a renewed petition, without fee, within two months from the date of this decision as provided by 37 CFR 1.181(f). The renewed petition can take the form of a resubmission of Exhibit "A", but may also include any additional showing in support of petitioner's position that this application is not abandoned.

PETITION DISMISSED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

John C. Andrade
P.O. Box 598
Dover, DE 19903

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AUG 13 2003

Paper No. 8

In re Application of
Jesse G. Smith
Application No. 10/119,580
Filed: June 16, 2003
Attorney Docket No. JS-0001

: DECISION ON
: RENEWED PETITION

This is a decision on the renewed petition filed on July 30, 2003 by which petitioner again requests withdrawal of the holding that this application stands abandoned for failure to timely file a proper reply to the Office letter mailed on August 16, 2002. The petition is considered under 37 CFR 1.181 and no fee is required.

The renewed petition is granted.

In the renewed petition, petitioner again alleges that a timely reply to the Office letter in question was in fact filed. Petitioner provides support for this allegation by attaching Exhibit "A" to the petition. Exhibit "A" includes a copy of the reply, a copy of a "certificate of Express Mail" dated February 19, 2003, which is construed as being a 37 CFR 1.8(a) certificate of mailing, and a copy of a check in the amount necessary for a three month extension of time under 37 CFR 1.136(a). As February 17, 2003 was a Federal holiday within the District of Columbia, and as February 18, 2003 was designated as a Federal holiday within the District of Columbia by reason of a Notice dated February 24, 2003 published in the Official Gazette of March 25, 2003, this evidence is deemed sufficient to establish that petitioner in fact filed a proper and timely reply to the outstanding Office letter. In addition, Office financial records show receipt of the extension fee.

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 February 19, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

John C. Andrade
P.O. Box 598
Dover, DE 19903

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KURT R. GANDERUP
U.S. BORAX INC.
26877 TOURNEY ROAD
VALENCIA, CA 91355

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MAR 2 9 2006

OFFICE OF PETITIONS

In re Application of :
Mark J. Manning, et al. :
Application No. 10/119,592 :
Filed: April 9, 2002 :
Attorney Docket No. USB-417-CIP

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 22, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment to the specification.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) 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.

This 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 PCT application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/218,954, which was filed on July 17, 2000, for which priority is claimed.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120, 365(c) and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this decision on petition 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 Technology Center Art Unit 1732 for appropriate action on the amendment submitted December 22, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120, 365 (c) and 119(e) of the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of

SIBAL, et al.
Application No. 10/119,614
Filed: April 10, 2002
Attorney Docket No. KIRU-0011

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 21, 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 Peter M. Ullman on behalf of all attorneys of record who are associated with customer No. 23377. All attorneys/agents associated with the Customer Number 23377 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 November 3, 2006 that requires a reply from the applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SANDEEP SIBAL**
228 COUNTRY CLUB LANE
SCOTCH PLAINS, NJ 07076

cc: **MR. ASHOK TANKHA, ESQ.**
IP PROCURE, INC.
36 GREENLEIGH DRIVE
SEWELL, NJ 08080

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/119,614	04/10/2002	Sandeep Sibal	KIRU-0011

CONFIRMATION NO. 7472

OC000000021469491

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Date Mailed: 12/05/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/21/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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ASHOK TANKHA, OF COUNSEL
LIPTON, WEINBERG & HUSICK
36 GREENLEIGH DRIVE
SEWELL, NJ 08080

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SEP 12 2007

OFFICE OF PETITIONS

In re Application of :
Sandeep Sibal et al. :
Application No. 10/119,614 : DECISION ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. KIRU-0011 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 28, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed March 28, 2007. Accordingly, the date of abandonment of this application is June 29, 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 $700.00 and the publication fee of $300, (2) the petition fee of $750.00, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GREGORY SMITH & ASSOCIATES
3900 NEWPARK MALL ROAD, 3RD FLOOR
NEWARK CA 94560

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NOV 10 2005

OFFICE OF PETITIONS

In re Application of :
Toru TAKEHARA et al. :
Application No. 10/119,625 : ON PETITION
Filed: April 9, 2002 :
Attorney Docket No. 294-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 1, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 2, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of March 1, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2627 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 6

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

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JUL 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Ying-Che Shih et al :
Application No. 10/119,632 : NOTICE
Filed: April 10, 2002 :
Attorney Docket No. U013973-6 :

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 1763.

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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PLEVY & HOWARD
600 NORTH EASTON ROAD
WILLOW GROVE, PA 19090

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OCT 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Byron W. Tietjen :
Application No. 10/119,653 : DECISION GRANTING PETITION
Filed: April 10, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. OR-07631 :

This is a decision on the petition, filed October 20, 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 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2881 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Paper No. 102904

DUANE MORRIS LLP
100 COLLEGE ROAD WEST, SUITE 100
PRINCETON, NJ 08540

DEC 2 2004

In re Application of:
EDWARD J. HOWARD
Serial No.: 10/119,653
Filed: April 10, 2002
Attorney Docket No.: **N0650-00302**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 06, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Plevy & Howard, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: PLEVY & HOWARD
600 NORTH EASTON ROAD
WILLOW GROVE, PA 19090

UNITED STATES PATENT AND TRADEMARK OFFICE

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Foley & Lardner
Washington Harbour
3000 K Street, N.W.
Suite 500
Washington, DC 2007-5143

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REEXAM UNIT

In re Application of :
M. Serizawa et al :
Application No. 10/119,679 : DECISION GRANTING PETITION
Filed: April 11, 2002 :
Attorney Docket No. 016887/0923 :

This is a decision on the Request For Corrected Filing Receipt filed December 15, 2003 and August 9, 2005, which are being treated as petition under 37 CFR 1.181 requesting that the above-identified application be accorded a filing date of April 11, 2002.

On April 11, 2002, the application was deposited.

On May 28, 2002, the Office of Initial Patent Examination mailed a Notice denoting the Filing/Receipt Date as April 11, 2002, stating that the application had been accorded a filing date and requiring an oath or declaration in compliance with 37 CFR 1.63 and the requisite surcharge.

In response on December 28, 2002, a communication including, *inter alia*, a declaration and the requisite surcharge were filed.

Thereafter, the application filing date was denoted as December 28, 2002.

In response, on December 15, 2003 and August 9, 2005, the present petition was filed. Petitioners argue that the application was filed on April 11, 2002. As evidence thereof, petitioners submitted a copy of their postcard receipt which acknowledges receipt of the application on April 11, 2002. Petitioners request that the application be accorded a filing date of April 11, 2002.

Upon review of the record, the application was deposited on April 11, 2002, and is entitled to April 11, 2002, as the application filing date.

In view of the above, the petition is granted.

The application is being returned to the Office of Initial Patent Examination for correction of the application filing date to April 11, 2002.

Telephone inquiries related to this decision only should be directed to the undersigned at (571) 272-7719.

Inquiries regarding petition status or general petition information are handled by the Office of Petitions Staff at (571) 272-3282.

Fred A. Silverberg
Senior Legal Advisor
Office of Patent Legal Administration (OPLA)
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

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MAR 0 5 2004
OFFICE OF PETITIONS

In re Application of

Davidson, et al. :

Application No. 10/119,756

: DECISION ON PETITION

Filed: April 11, 2002

:

Attorney Docket No. 146154.31009

This is a decision on the petition under 37 CFR 1.137(b), filed February 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed May 9, 2002, which set a period for reply of two (2) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on July 9, 2002. A Notice of Abandonment was mailed on February 4, 2004.

The substitute specification filed February 20, 2004, is noted and made of record.

The application is being forwarded to the Office of Initial Patent Examination 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

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ALEXANDRIA, VA 22313-1450
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FISH & RICHARDSON P.C.
3300 DAIN RAUSCHER PLAZA
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application :
Li :
Application No. 10/119,785 : PATENT TERM ADJUSTMENT
Filed: April 9, 2002 :
Dkt. No.: 13854-020001 :

This is a decision on the "APLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed September 1, 2004.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **GRANTED IN PART**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 34 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from 0 days as indicated on the Determination of Patent Term Adjustment mailed June 2, 2004 to 35 days.

A review of the application history reveals that an adjustment of 35 days can be attributed to the Office. In accordance with 37 CFR 1.703(a)(2), the adjustment began January 6, 2004, the day after the date that is four months from the date a response to a non-final Office action was filed, and ended February 9, 2004, the date the Notice of Allowance was mailed.

The Office errantly entered October 21, 2003 as the date a supplemental reply to the non-final rejection submitted. Review of the application history reveals that, as argued by applicant, there was no supplemental reply submitted on that date. Accordingly, the 46 day delay due to a supplemental response is in error. However, applicants' response (submission of RCE) to the Notice of Allowance was one day over three months and therefore a one day reduction should have been assessed. See, 37 CFR 1.704(b).

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 34 days as argued by applicant.

The Office acknowledges receipt of the required fee of $200.00 for an application for patent term adjustment.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Karin Ferriter for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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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	:	
Mitsuaki Oshima	:	
Application No. 10/119,793	:	DECISION GRANTING PETITION
Filed: April 11, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2002_0500	:	

This is a decision on the petition, filed November 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 September 19, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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BLAKE, CASSELS & GRAYDON LLP
BOX 25, COMMERCE COURT WEST
199 BAY STREET, SUITE 2800
TORONTO, ON M5L 1A9
CANADA

Mail Date: 04/21/2010

Applicant	: Robert J. Lambert	: DECISION ON REQUEST FOR
Patent Number	: 7599491	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/119,803	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1052** 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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BLAKE, CASSELS & GRAYDON LLP
BOX 25, COMMERCE COURT WEST
199 BAY STREET, SUITE 2800
TORONTO, ON M5L 1A9
CANADA

Mail Date: 05/18/2010

Applicant : Robert J. Lambert
Patent Number : 7599491
Issue Date : 10/06/2009
Application No: 10/119,803
Filed : 04/11/2002

: 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 **1079** 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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APR 9 2004

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND OR 97204

In re Application of	:
Ilya Ravkin et al	:
Serial No.: 10/119,814	: PETITION TO MAKE SPECIAL
Filed: April 9, 2002	:
Attorney Docket No.: VAI301BA	:

This is in response to applicants' petition filed April 1, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, XII. Therefor the petition is **GRANTED**.

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, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 703-872-9306.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 4

JOSEPHINE YOUNG
KING & SPALDING
191 PEACHTREE STREET
SUITE 45
ATLANTA, GA 30303

MAIL

NOV 25 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Ro, Sookwang :
Application No. 10/119,878 : DECISION ON REQUEST TO
Filed: April 10, 2002 : WITHDRAW AS ATTORNEY
For: SYSTEM AND METHOD FOR NETWORK DELIVERY OF LOW BIT RATE MULTIMEDIA CONTENT :

This is a decision on the request to withdraw as attorney/agent of record filed on September 04, 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**.

The following attorney(s) are withdrawn from record: Josephine Young, Reg. No. 48,308.

All future communications from the Office will 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arlington, VA 22313-1450
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Paper No. 8

Howrey Simon Arnold & White
CityPoint, One Ropemaker Street
London EC2Y 9HS
United Kingdom

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JUL 2 5 2003

OFFICE OF PETITIONS

In re Application of
A. J. Soper et al.
Application No. 10/119,900
Filed: April 11, 2002
Attorney Docket No. 06609.0002.00US00

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 13, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed May 23, 2002, which set a shortened statutory period for reply of (2) Two Months. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the application became abandoned on August 24, 2002.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAR 27 2003

Technology Center 2100

Paper No. 3

WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY NC 27512

In re Application of: Yoakum et al.
Application No. 10/119,923
Filed: April 10, 2002
For: PRESENCE INFORMATION BASED ON MEDIA ACTIVITY

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed February 3, 2003 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DENIED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status...;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Petitioner's submission of February 3, 2003 does not meet the criteria set forth above. Specifically, petitioner fails to provide copy of the references deemed most closely related to the subject matter encompassed by the claims.

Petitioner has submitted discussion of references. However, petitioner fails to compare references against the claimed invention (i.e. features of claims that are taught by the references as well as the improvement or new features that are not taught by the references) as required by 37 CFR 1.111 (b) and (c). Accordingly, the petition is **DENIED**.

If the petitioner desires further review of this decision, petitioner should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned at 703-305-9750.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer ~~Security,~~ Architecture ~~and~~ Software
and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

Benjamin S. Withrow
WITHROW & TERRANOVA, P.L.L.C.
P.O. Box 1287
Cary, NC 27512

MAIL

JUN 0 3 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
YOAKUM et al.
Application No. 10/119,923
Filed: April 10, 2002
For: PRESENCE INFORMATION BASED ON MEDIA ACTIVITY

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the request for reconsideration of petition, filed April 17, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, **will make an election without traverse as a prerequisite to the grant of special status**.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with

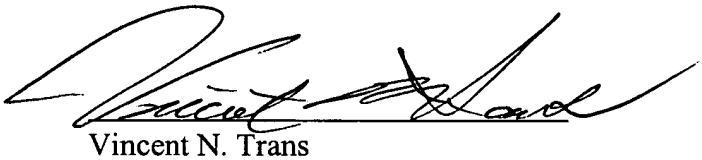
the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated.*** The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission meets all the criteria set out above. Accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.



Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and
Information Security
(703) 305-9750

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CARY, NC 27512

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OFFICE OF PETITIONS

In re Application of	:	
John H. Yoakum et al	:	
Application No. 10/119,923	:	DECISION GRANTING PETITION
Filed: April 10, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7000-143	:	

This is a decision on the petition, filed November 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2144 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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THE NATH LAW GROUP
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of
Arthur M. Deboeck, et al.
Application No. 10/119,939
Filed: April 11, 2002
Attorney Docket No. 4619-002

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 14, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were not appointed by customer number. Petitioner must withdraw in the same manner by which they were appointed. The Office strongly encourages practitioners(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she, is in fact, of record and how he or she was made of record. Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a Request for Customer Number Data Change (PTO/SB/124) and not a Request for Withdrawal as Attorney or Agent and Change of Correspondence Address (Form PTO/SB/83).

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.

All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: GALEPHAR PHARMACEUTICAL RESEARCH, INC.
C/O WILLIAM E. BEAUMONT
627 SOUTH ASAPH STREET
ALEXANDRIA, VA 22314

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BERKELEY LAW & TECHNOLOGY GROUP
1700 NW 167TH PLACE
SUITE 240
BEAVERTON, OR 97006

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DEC 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Yin-Chun Huang et al	:	
Application No. 10/119,959	:	DECISION GRANTING PETITION
Filed: April 11, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. SUND 308	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 12, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 1, 2006 as required by the Notice of Allowance and Fee(s) Due mailed December 1, 2005. A Notice of Abandonment was mailed on April 14, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue and publication fees; (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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780 NORTH WATER STREET
MILWAUKEE, WI 53202

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JUN 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Bryan S. Memmott, et al. :
Application No. 10/119,969 : ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. 057575-0002 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 17, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 1, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 1724 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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James V. Harmon
Pillsbury Center, Suite 2000
220 South Sixth Street
Minneapolis, MN 55402

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MAR 14 2005

OFFICE OF PETITIONS

In re Application of :
Robert A. Ganz, et al. :
Application No. 10/119,976 : DECISION ON PETITION
Filed: April 9, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. N/A

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 2, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed January 20, 2004.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on April 9, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application 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.

Petitioner submitted a "Request for Expedited Handling of the Attached Petition" along with a fee of $130, with the instant petition. Unfortunately, the petition did not reach the appropriate deciding official in a timely manner and it was not handled expeditiously. The Office wishes to apologize to petitioner for any inconvenience the delay in responding to this petition may have caused.

Petitioner has also requested a refund of the petition surcharge of $1330 based on the priority claim being inserted in the original oath or declaration filed April 9, 2002, which is being treated as a petition under 37 CFR 1.183 requesting a waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t). However, petitioner admits the priority claim was not listed on the first line of the specification.

37 CFR 1.183 states:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

In order to grant any petition under 37 CFR 1.183, petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985). Petitioner has not shown that either condition exists in this case.

The circumstances of this case do not demonstrate an extraordinary situation, much less one where justice requires waiver of the rules. The failure to timely submit the claim for priority of the earlier application within the time period set forth in 37 CFR 1.78(a)(ii) was a circumstance entirely within petitioner's control, and could have been avoided by the exercise of reasonable care and diligence. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care, and diligence. U.S. v Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Circ. 1983). Furthermore, since the USPTO did not cause or contribute to petitioner's filing delay, this case is even further removed from consideration as one where "justice requires" equitable relief. See Helfgott & Karras, P.C. v. Dickinson, 209 F.3d 1328, 54 USPQ2d 1425 (Fed. Cir. 2000).

The $130 fee petitioner tendered for the request to expedite will be applied towards the petition under 37 CFR 1.183.

Any inquiries concerning this decision may be directed to Marianne Jenkins at (571) 272-3223.

This application is being referred to Technology Center Art Unit 3700 for appropriate action on the amendment filed January 20, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

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Jeffrey C. Hood
Meyertons Hood Kivlin Kowert & Goetzel PC
P. O. Box 398
Austin, TX 78767

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of :
Steven Burstein :
Application No. 10/119,983 : ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. 5707-00900 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being referred to Technology Center 2800 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 7

DONALD W. MEEKER
#512
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SAN FRANCISCO, CA 94121

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APR 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Ross D. Dettorre, et al. :
Application No. 10/120,024 : ON PETITION
Filed: April 9, 2002 :
Attorney Docket No. None :

This is a decision on the petition, filed April 8, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

It is noted that the petition, including the statement of unintentional delay, was intended to be signed by applicant's counsel, Donald W. Meeker; however, the petition is not signed. Since the Certificate of Mailing under 37 CFR 1.8 found on the petition includes a signature by counsel, the signature thereon will be construed as the necessary ratification of the unsigned petition and the statement of unintentional delay.

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed December 19, 2002, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on July 10, 2003. On April 8, 2004, an amendment and the present petition were filed.

The petition is **GRANTED**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 3634 for consideration of the amendment filed April 8, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: DONALD W. MEEKER
924 EAST OCEAN FRONT, #E
NEWPORT BEACH, CA 92661

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Paper No. 4

STEVEN J. SARUSSI
MCDONELL BOEHNEN HULBERT & BERGHOFF
32ND FLOOR
300 S. WACKER DRIVE
CHICAGO, IL 60606

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JUN 19 2003

OFFICE OF PETITIONS

In re Application of :
Schultz, et al. :
Application No. 10/120,027 : ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. 96-732-Y :

This is a decision on the petition under 37 CFR 1.53 filed on June 4, 2002, requesting that the above-identified application be accorded a filing date of April 10, 2002, including page 4 of the specification.

The application was filed on April 10, 2002. However, on May 8, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s)" that stated the application had been accorded a filing date, but page 4 of the specification appears to have been omitted.

In response, on June 4, 2002, the instant petition and a copy of page 4 of the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of one hundred fifty-eight (158) pages of specification on April 10, 2002. A review of the application file indicates the presence of one hundred fifty-seven (157) pages of specification. It is assumed that page 4 of the specification was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee, submitted June 4, 2002, will be refunded to deposit account no. 13-2490.

This application will be returned to OIPE for further processing with a filing date of April 10, 2002, using the copy of page 4 of the specification, supplied on June 4, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 6/18/03 | 2 Serial/Patent # 10/120,027

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	3	6/4/02	$130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 130

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 13--2490

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

PTO error

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: G-Tannous TITLE: Pat. Atty.

SIGNATURE: PHONE: 306-9200

OFFICE: 4700

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: DATE: 6/19/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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Paper No. 6

John P. Ward
Sanjeet K. Dutta
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

MAIL

JUL 2 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Fischer et al.
Application No. 10/120,030
Attorney Docket No. 005306.P029C
Filed: April 9, 2002
For: METHOD AND SYSTEM FOR USING INTEGRATION OBJECTS WITH ENTERPRISE BUSINESS APPLICATIONS

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR §1.102(d) – ACCELERATED EXAMINATION

This is a decision on the petition, filed May 12, 2003 under 37 CFR §1.102(d), in accordance with MPEP 708.02(VIII), requesting the Accelerated Examination of the above-identified application.

The petition is **DISMISSED**.

MPEP § 708.02, Section VIII, sets out the prerequisites to be met by applicant for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), as follows:

> (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.
> The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed.
> If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention.
> If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn.

> Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new 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.

Petitioner submits one copy of each of the references most closely related to the subject matter encompassed by the claims and submits a statement that a search has been made and provides a list of the field of search by class and subclass. Therefore, the petition complies with items (C) and (D) of the items mentioned above.

Applicant submits a fee under 37 CFR 1.17(h). Therefore, the petition complies with item (A) mentioned above.

However, the petition is deficient with respect to items (B) and (E) above:

(B) Applicant states that all the claims are directed to a single invention. Since there are several independent claims, each having a different scope, it will be up to the examiner to make such a determination. Applicant has made no provision for the possibility of a restriction requirement by the examiner. Applicant must provide the following statement as a prerequisite to a grant of special status: "If the Office determines that all claims presented are not obviously directed to a single invention, applicant will make an election without traverse and will follow established telephone restriction practice to make such an election if requested to do so."

(E) Applicant has failed to provide a detailed discussion that points out, *with the particularity required by 37 CFR 1.111(b) and (c)*, how the claimed subject matter is patentable over the references. For each of the references cited, applicant must clearly show how each of the cited references are deficient in teaching *or suggesting* specific language of the claims. The brief summary of the four references followed by a paraphrase of the claims does not meet the requirements of 37 CFR 1.111(b) and (c).

Furthermore, the summary of the claim features does not match the language of the claims in the present application. The limitations "customizable products classes", "customizable product instant", "component products", etc. are all missing from the claims.

Therefore, the Petition is **DISMISSED**. The application file will be forwarded to the Central Files of Technology Center 2100 to await examination in its proper turn based on its effective filing date. Petitioner is entitled to one opportunity to perfect the request in a renewed petition to make special. Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0269

BJP

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SEP 28 2006
OFFICE OF PETITIONS

In re Application of :
Fischer, et al. :
Application No. 10/120,030 : DECISION ON PETITION
Filed: April 9, 2002 : TO WITHDRAW
Attorney Docket No. 005306.P029C : 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 19, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on August 21, 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4. Suite 201
Austin, TX 78759

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In re Application of :
Kilgore, et al. :
Application No. 10/120,031 : DECISION ON PETITION
Filed: April 9, 2002 : TO WITHDRAW
Attorney Docket No. 005306.P029C : 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 16, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 11, 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
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In re Application of :
Kilgore, et al :
Application No. 10/120,031 : ON APPLICATION FOR
Filed: April 9, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. OIC0221C1US :

This is in response to the PETITION FOR REVIEW OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed October 28, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is seven hundred seventy-six (776) days, not four hundred sixty-four (464) days, as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request 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 patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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).

---

[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.

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 Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No. 7

James E. Murray
69 South Gate Drive
Poughkeepsie, NY 12601

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OFFICE OF PETITIONS

In re Application of

Kim, et al.

Application No. 10/120,071

: DECISION ON PETITION

Filed: April 10, 2002

Attorney Docket No. CHA920020002US1

This is a decision on the petition under 37 CFR 1.137(b), filed February 19, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed May 22, 2002, which set a period for reply of two (2) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on July 23, 2002. A Notice of Abandonment was mailed on January 21, 2004.

The substitute drawings filed February 19, 2004, is noted and made of record.

The application is being forwarded to the Office of Initial Patent Examination 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

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Technology Center 2100

Paper No. 3

Scott W. Hewett
400 West Third Street, No. 223
Santa Rosa, CA 95401

In re Application of:	)	
David L. Weaver	)	
Application No. 10/120,075	)	**DECISION ON REQUEST FOR**
Filed: April 09, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: SOFTWARE CONTROLLABLE REGISTER MAP	)	

This is a decision on the Request To Withdraw from Representation filed November 19, 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 filed November 19, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

FM Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Mr. Albert S. Penilla, Esq.
MARTINE & PENILLA, LLP
710 Lakeway Drive, Suite 170
Sunnyvale, CA 94085

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Albert S. Penilla, Esq.
Martine, Penilla & Gencarella, LLP
710 Lakeway Drive, Suite 170
Sunnyvale, CA 94085

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DEC 3 0 2005

OFFICE OF PETITIONS

In re Application of
David Weaver
Application No. 10/120,075
Filed: April 9, 2002
Attorney Docket No. SUNMP223

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed August 26, 2005, to withdraw the holding of abandonment for the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to petitioner.

This application was held abandoned for failure to respond timely to the Notice of Allowance and Fee(s) Due, mailed on November 18, 2004, which set a three-month statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on February 19, 2005. A Notice of Abandonment was mailed on March 23, 2005.

In the petition, petitioner asserted that the practitioner did not receive the Notice of Allowance and Fee(s) Due because the USPTO incorrectly entered an earlier filed power of attorney and change of correspondence address. As a result of this error, the Office erroneously mailed the Notice to the assignee rather than the practitioner. Accordingly, petitioner requested that the Office withdraw the holding of abandonment, remail the Notice of Allowance and Fee(s) Due, and restart the period for reply.

A review of the record indicates that petitioner filed a power of attorney, a change of correspondence address and a 3.73(b) statement with the USPTO on April 12, 2004. On April 20, 2004, the USPTO mailed a Notice to petitioner, indicating the change of correspondence address and the recordation of power of attorney to Albert S. Penilla, Esquire, of Martine, Penilla & Gencarella, LLP. Thereafter, the USPTO mistakenly entered an earlier filed power of attorney and change of correspondence dated August 20, 2002. Consequently, the recordation of the power of attorney of August 20, 2002, negated the recordation of the later power of attorney of April 12, 2004. For this reason, the USPTO mailed the Notice of Allowance and Fee(s) Due to an incorrect correspondence address.

In view of the above, the petition is **granted**. The Notice of Abandonment was mailed in error and is hereby withdrawn. The application is restored to pending status. As the practitioner did not receive the original Notice of Allowance and Fee(s) Due of November 18, 2004, **Technology Center Art Unit 2183 shall remail the Notice of Allowance and restart the period for response.**

The Office has re-entered the power of attorney and change of correspondence address of April 12, 2004, and made it of record.

This matter is being forwarded to Technology Center Art Unit 2183 for further action consistent with this decision.

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

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 4

JAMES N VIDEBECK
1 S 376 SUMMIT AVE
COURT C
OAKBROOK TERRACE, IL 60181

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SEP 2 4 2002

OFFICE OF PETITIONS

In re Application of :
Phillip A. Sollami :
Application No. 10/120,083 : DECISION ON PETITION
Filed: April 9, 2002 :
Title: BIT HOLDERS AND BIT BLOCKS :
FOR ROAD MILLING, MINING AND :
TRENCHING EQUIPMENT :

This is a decision on the "Petition in Response to Notice of Omitted Items," filed July 16, 2002 (certificate of mailing July 10, 2002). Petitioners request that the Office accord the above-identified application a filing date of April 9, 2002, with page 24 of the specification as a part of the original application disclosure.

Application papers in the above-identified application were filed on April 9, 2002. However, on May 13, 2002, the Office of Initial Patent Examination mailed applicants a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicants were thereby notified that the application papers had been accorded a filing date; however, page 24 of the specification (description and claims) appeared to have been omitted. This Notice set a two-month period for reply.

Applicants timely responded, filing the instant petition asserting that the application as filed on April 9, 2002 included the missing page of specification. Accompanying the petition was a copy of page 24 of the specification as applicants maintain this page was originally filed on April 9, 2002; a copy of the Express Mail mailing label used to transmit the application; and copies of the two return postcard.

Applicants state, in essence, that:

> On April 9, 2002, they filed two divisional patent applications from the same parent application (now patent No. 6,371,567). Each divisional application was enclosed in a separate mailing envelope with both mailing envelopes enclosed in a single Express Mail envelope bearing Express Mail No. EF030393399US. In response, applicants state that they received two return postcards both stamped with the same application number. Upon contacting the Office and having the check filed with the instant application traced, applicants learned the application number for the instant application.

Applicants further argue, in essence, that:

> copies of both return postcards clearly show that 28 pages of specification were mailed to the United States Patent and Trademark Office on April 9, 2002. Nothing on the postcard indicates that the mail room or other recipient noted any pages as missing. Accordingly, it is applicant's attorney's

> opinion that in view of the fact that both applications were mistakenly given the same serial number at the time of filing, there was some problem in the mail room at that point, and that page 24 of Ser. No. 10/120,083 was misplaced.

Petitioner's arguments and evidence have been considered, but not found persuasive that page 24 was among the papers deposited on April 9, 2002.

Papers not present in the USPTO on the date of deposit will not be considered a part of the original application disclosure. The application file is the Official record of what was received in the Office in an application. A review of the instant application file reveals that page 24 of the specification is not present among the papers filed on April 9, 2002, and thus, is not considered deposited in the Office on April 9, 2002.

Petitioner's evidence does not overcome this conclusion. An Express Mail mailing label evidences a date of deposit of an application, but does not evidence the specific papers filed in an application. For this purpose, applicants may rely on a itemized postcard properly identifying the items being filed. See MPEP 503.

However, a review of the return postcards submitted reveals that: They both bear an Office date-stamp of April 9, 2002 and both lack a notation that any of the items denoted were missing from the application. However, they both itemize and identify the same items as being filed and both reflect an assignment of the same application number (10/119,242). In addition, a review of the application transmittal received in the Office with the original application papers in this application reveals that it bears the following notation: "The PTO did not receive the following listed item(s) post card." This evidence does not support a conclusion that the missing page was misplaced, as alleged by applicants. Rather, as applicants placed two applications in the same Express Mail envelope, the return of the two postcards and the notation on the transmittal supports a conclusion that both postcards were placed in the same envelope within the Express Mail envelope. In any event, both postcards are associated with the papers filed in application No. 10/119,242, and only evidence receipt of the papers filed in application No. 10/119,242. Given the manner in which applicants filed the instant applications, it cannot be concluded that the lack of notation of any missing items on the postcard is based on a review of the papers filed in the instant application. Thus, neither return postcard serves as evidence of the papers filed in this application.

Accordingly, the petition is **DISMISSED**.

Nonetheless, petitioner argues that page 24 of this application is not new matter as it was part of patent 6,371,567 when it was originally filed. In this regard, a review of the application transmittal reveals that the entire disclosure of prior Application No. 09/500,983 was incorporated by reference into the instant application. MPEP 201.06(c) states that:

> If a continuation or divisional application as originally filed is entitled to a filing date despite the omission of a portion of the prior application(s), applicant will be permitted to add the omitted material by way of an amendment

> provided a statement was included in the application as originally filed that incorporates by reference the prior application(s). If the application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification page(s) and/or drawing figure(s) identified in a "Notice of Omitted Item(s)" may be added by amendment provided the omitted item(s) contains only subject matter in common with such prior application(s). In such case, applicant need not respond to the "Notice of Omitted Item(s)." Applicant should submit the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g).

If applicants desire that page 24 be added to the application, the appropriate procedure is by way of amendment requesting the entry of this page. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

The application is being returned to the Office of Initial Patent Examination for completion of pre-examination processing, with the presently according filing date of April 9, 2002, using the papers received in the Office on that date.

Telephone inquiries related to this decision may 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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OFFICE OF PETITIONS

In re Application of :
Glen H. Erikson :
Application No. 10/120,092 : ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. E1047/20098 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 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 non-final Office action mailed June 16, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 17, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 1600, Art Unit 1634 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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OFFICE OF PETITIONS

In re Application of :
Richard E. Oberuc :
Application No. 10/120121 : DECISION ON PETITION
Filed: 04/10/2002 :
Attorney Docket No. BURHAL 3.0-002 :

This is a decision on the petition, filed on November 2, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Richard E. Oberuc and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Richard E. Oberuc is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

It is noted that petitioner submitted a petition fee of $400.00. The fee for a request under 37 CFR 3.81(b) is $130.00, however. The overpayment of $270.00 will be credited to counsel's deposit account, as authorized in the request.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3231. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Paper No. 082404

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

AUG 30 2004

In re Application of:
TIMOTHY E. VAN ECK
Serial No.: 10/120,135
Filed: April 11, 2002
Attorney Docket No.: **040092-013910US**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 18, 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 of McDermott, Will & Emery was filed on April 05 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 form the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MCDERMOTT, WILL & EMERGY
18191 VON KARMAN, AVENUE, SUITE 400
IRVINE, CA 92612

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Paper No. 082504

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
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SEP 15 2004

In re Application of:
TIMOTHY E. VAN ECK
Serial No.: 10/120,143
Filed: April 11, 2002
Attorney Docket No.: **040092-014110US**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 18, 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 of McDermott, Will & Emery was filed on April 05 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 form the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. Laballe at (571) 272-1594.

Clayton E. Laballe, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MCDERMOTT, WILL & EMERGY
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Paper No. 10

Timothy A. Cassidy, Esq.
Dority & Manning, P. A.
Post Office Box 1449
Greenville, SC 29602-1449

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MAR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Kristian E. Johnsgard, et al. :
Application No. 10/120,186 : ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. AGX-67 :

This is in response to the petition under 37 CFR 1.47(a), filed October 29, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventors (Kristian E. Johnsgard; David E. Sallows; Daniel L. Messineo; and Mark W. Johnsgard) have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the declaration, which is assumed to be the last known addresses of the non-signing inventors. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to Marianne Morgan at (703) 306-3475.

Frances M. Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

David E. Sallows
2601 Mallard Court
Union City, CA 94587

In re Application of
Kristian E. Johnsgard; David E. Sallows; Daniel L. Messineo; Robert D. Mailho and; Mark W. Johnsgard
Application No. 10/120,186
Filed: April 10, 2002
For: SYSTEMS AND METHODS FOR EPITAXIALLY DEPOSITING FILMS ON A SEMICONDUCTOR SUBSTRATE

Dear David E. Sallows:

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 M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Timothy A. Cassidy, Esq.
Dority and Manning, P. A.
P. O. Box 1449
Greenville, SC 29602-1449

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Daniel L. Messineo
1734 Flickenger Avenue
San Jose, CA 95131

COPY MAILED

MAR 1 8 2003

OFFICE OF PETITIONS

In re Application of
Kristian E. Johnsgard; David E. Sallows; Daniel L. Messineo; Robert D. Mailho and; Mark W. Johnsgard
Application No. 10/120,186
Filed: April 10, 2002
For: SYSTEMS AND METHODS FOR EPITAXIALLY DEPOSITING FILMS ON A SEMICONDUCTOR SUBSTRATE

Dear Daniel L. Messineo:

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: Timothy A. Cassidy, Esq.
Dority and Manning, P. A.
P. O. Box 1449
Greenville, SC 29602-1449

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Mark W. Johnsgard
721 Ecker Court
Campbell, CA 95008

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MAR 1 8 2003

OFFICE OF PETITIONS

In re Application of
Kristian E. Johnsgard; David E. Sallows; Daniel L. Messineo; Robert D. Mailho and; Mark W. Johnsgard
Application No. 10/120,186
Filed: April 10, 2002
For: SYSTEMS AND METHODS FOR EPITAXIALLY DEPOSITING FILMS ON A SEMICONDUCTOR SUBSTRATE

Dear Mark W. Johnsgard:

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
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Timothy A. Cassidy, Esq.
Dority and Manning, P. A.
P. O. Box 1449
Greenville, SC 29602-1449

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

OSSI & ASSOCIATES
P.O. Box 826
Ashburn, VA 20146-0826

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MAR 2 9 2005

OFFICE OF PETITIONS

In re Application of
Ueyanagi et al.
Application No. 10/120,211
Filed: April 10, 2002
Attorney Docket No. FUJI:217

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed December 12, 2004, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition is under 37 CFR 1.181 is **granted.**

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the Office action mailed January 9, 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 was deemed abandoned as of April 10, 2004. A Notice of Abandonment was mailed on October 13, 2004.

Petitioner contends a Notice of Appeal and request for a three month extension of time were timely filed. Petitioner has supplied a showing which complies with the requirements of 37 CFR 1.8(b). Therefore, petitioner has proven the papers were timely filed.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, the petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the $500 fee for the instant petition will be credited back to petitioner's deposit account.

The Office will charge petitioner's deposit account $950 for the three month extension of time and $330 for the Notice of Appeal.

The Notice of Appeal filed December 12, 2004, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

Technology Center Art Unit 2832 will be informed of the instant decision so that records may be corrected to indicate the application is not abandoned.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

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
www.uspto.gov

FEB 23 2004

Paper No. 7

In re Application of
Donald M. Wood
Application No. 10/120,235
Filed: April 11, 2002
Attorney Docket No. DW-1

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on December 19, 2003 by which petitioner requests that the Office letter dated August 1, 2003 be treated as though remailed or petitioner's late response be accepted without fee. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

It appears from the petition that the Office letter in question was never received by petitioner. This conclusion is reached based upon the showing that accompanies the petition which is persuasive that the Office letter in question was not received. In general, compare the requirements of the Notice published at 1156 OG 53 with respect to nonreceipt of Office correspondence.

Accordingly, it appears that petitioner is entitled to have the Office letter dated August 1, 2003 remailed. However, petitioner has also included a responsive amendment that was prepared after the August 1, 2003 was transmitted to petitioner by the examiner. Therefore, physical remailing of the Office letter in question is not necessary, and the amendment filed on December 19, 2003 will be accepted as timely filed.

The application is being forwarded to the Head Supervisory Applications Examiner in Technology Center 3700 to have an entry in the PALM system made to show that paper No. 4 has been remailed as of November 19, 2003. The amendment filed on December 19, 2003 will thereafter be entered in the application file, and the file will be forwarded to the examiner for action on the amendment.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Henry W. Cummings
3313 W. Adams St.
St. Charles, MO. 63301

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.
10/120,252	04/11/2002	Alexander Bilyk	P 0291155 / FF 34674/02	9014

909 7590 01/28/2008
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER	
CAMERON, ERMA C	
ART UNIT	**PAPER NUMBER**
1762	

MAIL DATE	DELIVERY MODE
01/28/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES 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.
10120252	4/11/02	BILYK ET AL.	P 0291155 / FF 34674/02

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER	
/Erma Cameron/	
ART UNIT	**PAPER**
1792	20080124

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

see attached Response for Certificate of Correction

/Erma Cameron/
Primary Examiner
Art Unit: 1792

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080124

DATE : January 24, 2008

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.:

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:

Application US 10/120252 does not qualify as the National Stage of PCT / AU / 01272.

SPE: Timothy Meeks **Art Unit** 1792

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 7/28/08

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/120252 Patent No: 6800331B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: The Supplemental Declaration (6/28/04) and the original Declaration (8/15/02) both only claim foreign priority under 35 U.S.C. 119(a)-(d) or 365(a) for the PCT/AU00/01272 application. No claim for domestic priority under 35 U.S.C 119(e), 120 and/or 365(c) was made.

SPE — 1792 Art Unit

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P.O. Box 1450
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11/5/08

E. R. Hernandez
Pillsbury, Winthrop, Shaw Pittman. LLP
P. O. Box 10500
McLean, VA 22102

Patent No: 6,800,331 B2
Application No: 10/120,252
Applicant: Bilyk, et al.
Issued: October 5, 2004
Title: **PREPARATION OF FUNCTIONAL POLYMERIC SURFACE**

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.

The patent is in fact printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner. The Supplemental Declaration (06/28/04) and the original Declaration (08/15/02) both only claim foreign priority under 35 U.S.C.119 (a)-(d) or 365(c) for the PCT/AU00/01272 application. No claim for domestic priority under 35USC 119(e), 120 and/or 365(c) was made.

In view of the foregoing your request in this matter is hereby **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Virginia Tolbert
For Mary F. Diggs
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NOV 16 2005

OSHA LIANG L.L.P.
1221 McKinney Street
Suite 2800
Houston, TX 77010

In re Application of:
HOELLER *et al.*
Serial No.: 10/120,253
Filed: April 10, 2002
Attorney Docket No.: **04995/069001**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the communication filed September 23, 2004 and resubmitted on July 21, 2005. The communication has been treated as a petition under 37 CFR § 1.181, to withdraw the holding of abandonment in the above-identified application. No petition fee is required.

The petition is **GRANTED**.

The application was held abandoned for the failure to timely file a response to the Restriction Requirement mailed on December 24, 2003. A Notice of Abandonment was mailed on September 13, 2004.

Petitioner asserts that on January 26, 2004, a response, including an election, was timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of the response and a copy of a return postcard, which acknowledges receipt in the USPTO of the response on January 26, 2004.

A review of the application file reveals the above noted response was not matched with the application file wrapper at the time of mailing of the Notice of Abandonment. The above-identified response filed January 26, 2004, has since been located and matched with the file wrapper.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

DATE: 8/23/07 APPLICATION NUMBER: 10120253

DOC CODE: PET.DEC.PUBS DOC DATE: 4/28/07

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

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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Paper No.

OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

COPY MAILED

AUG 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Hoeller et al.	:	DECISION ON APPLICATION
Application No. 10/120,253	:	FOR
Filed: 04/10/2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
03850/022001	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)," filed on 20 June, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to five hundred thirty-six (536) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **six hundred six (606)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On 31 May, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On 20 June, 2007, applicants timely submitted the instant application for patent term adjustment[1]. Applicants' basis for the application for patent term adjustment is the miscalculation of delay from the 24 December, 2003, mailing date of the Office action requiring restriction to the copy of the response filed on 21 July, 2005, with the petition to withdraw the holding of abandonment instead of the proper 26 January, 2004, date that applicants' reply was timely filed. As

[1] PALM records indicate that the Issue Payment was filed on 16 August, 2007.

applicants' response was filed on 26 January, 2004, applicants assert that the total period of applicant delay should be 155 days, not 639 days[2].

In this instance, applicants are correct. The showing of record is that applicants timely filed a reply to the Office action mailed on 24 December, 2003. Applicants' response was not timely matched with the file due to an Office error, however, and the application was held abandoned. The holding of abandonment was subsequently withdrawn in a decision mailed on 16 November, 2005[3]. As applicants have shown, and the file reflects, that a timely response was filed on 26 January, 2004, any delay should be calculated based on the date that applicants actually filed the response to an Office action, and not based on the later date of the filing of the duplicate copy of the response. As applicants' response was received within three months after the mailing date of the Office action mailed on 24 December, 2003, there is no applicant delay within the meaning of §1.704(b) for the filing of the response to the Office action mailed on 24 December, 2003.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 606 days (not 536 days).

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to counsel's deposit account. No additional fees are required.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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[2] Applicants agree with the period of adjustment of 207 days for Office delay and the period of reduction of 155 days for applicant delay.

[3] It is further noted that the record establishes that the petition to withdraw the holding of abandonment was filed on 23 September, 2004, which is within two months of the mailing of the notice of abandonment mailed 13 September, 2004. Accordingly, no reduction was warranted pursuant to 37 CFR 1.704(c)(4).

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 REVISED PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SEP 27 2007

OFFICE OF PETITIONS

OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

In re Application of	:	
Frank Hoeller et al	:	
Application No. 10/120,253	:	DECISION GRANTING PETITION
Filed: April 10, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03850/022001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 25, 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 August 16, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2878 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 20, 2006

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/120255 Patent No.: 7,022,897 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE — 1638 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MEYERTONS HOOD KIVLIN
KOWERT & GOETZEL PC
P O BOX 398
AUSTIN, TX 78767-0398

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OCT 18 2004

OFFICE OF PETITIONS

In re Application of :
David W. Fuller III, et al. :
Application No. 10/120,261 : DECISION GRANTING PETITION
Filed: April 10, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5150-60000 :

This is a decision on the petition, filed October 15, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 20, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2863 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Date : October 18, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/120,261**

Applicant(s) : David W. Fuller III, et al
Application No. : 10/120,261
Filed : April 10, 2002

The above-identified application has been assigned Patent No. 6,810,348 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. 6,810,348 to David W. Fuller III, et al of Texas for SYSTEM AND METHOD FOR ONLINE SPECIFICATION OF MEASUREMENT HARDWARE appearing in the Official Gazette of October 26, 2004 should be deleted since no patent was granted."

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: 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

SPE : J. Barlow

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/24/06

Paper No.: _____

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/120,261 Patent No.: 7043393

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: Corrections resolve errors in printing and are commensurate with the prosecution history

John Barlow
SPE Supervisory Patent Examiner
Technology Center 2800

2863
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

Hillel T. Cohn, Esq.
Morrison & Foerster, LLP
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

COPY MAILED
MAY 19 2006
OFFICE OF PETITIONS

In re Application of :
Terrell, et. al. :
Application No. 10/120,266 :
Filed: October 18, 2001 :
Attorney Docket No. 39658.00013 (QT1192.US) :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on December 12, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents of record have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

This application file is being referred to Technology Center Art Unit 2616, for review of the amendment filed January 30, 2006.

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: ~~Amelia Au~~

cc: KLEIN, O'NEILL & SINGH
2 PARK PLAZA
SUITE 510
IRVINE, CA 92614

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

CHARLES W. CALKINS
KILPATRICK STOCKTON
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

COPY MAILED

JUL 2 4 2002

OFFICE OF PETITIONS

In re Application of :
Adnan M. M. Mjalli et al : DECISION GRANTING
Application No. 10/120,278 : PETITION
Filed: April 10, 2002 :
Attorney Docket No. 41305.272626 :

This is a decision on the petition under 37 CFR 1.10(d) filed on June 6, 2002, requesting that the above-identified application be accorded a filing date of April 10, 2002, rather than the presently accorded filing date of April 11, 2002.

Applicants request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on April 10, 2002, pursuant to the requirements of 37 CFR 1.10. Applicants acknowledge that the date of deposit in Express Mail shown on applicant's Express Mail receipt is April 11, 2002, but argue that the application was actually deposited with the United States Postal Service (USPS) as Express Mail on April 10, 2002.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show

that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in 'Express Mail Post Office to Addressee' service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS." Evidence from the USPS may be the Express Mail Corporate Account Mailing Statement. Evidence that came into being within one day after the deposit of the correspondence as Express Mail may be in the form of a log book which contains information such the place, date and time of deposit; the time of the last scheduled pick-up for that date; and the date and time of entry in the log.

The petition filed June 6, 2002, is accompanied by, inter alia, a copy of the USPS Track/Confirm system information showing the Express Mail package in question arrived at the Charlotte NC 28219 processing center on April 10, 2002.

Since the evidence from the USPS, namely, the USPS Track/Confirm system information, corroborates a "date-in" of April 10, 2002, the petition is granted. Since the petition was a result of PTO error, the $130 petition fee is being credited to counsel's deposit account.

The application is being returned to the Office of Initial Patent Examination to await applicants' response to the Notice mailed June 4, 2002, and for correction of the filing date to April 10, 2002.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/27/2005

TO SPE OF : ART UNIT 1700(1754)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,752,974

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-922
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.

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:

references 5-9 appeared on the form-892 and should be listed on the Patent. The references 1-4 were not considered and there is no corresponding I.D.S. in the file.

SPE

1754
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.

Kevin P. Crosby
BRINKLEY MCNERNAY MORGAN SOLOMON & TATUM
200 East Las Olas Blvd.
New River Center Suite 1900
Fort Lauderdale, FL 33301

COPY MAILED

NOV 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Delavega et al. :
Application No. 10/120,308 : DECISION ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. 7841-02302 :

This is a decision on the PETITION TO REVIVE UNAVOIDABLY ABANDONED APPLICATION UNDER 37 C.F.R. 1.137(a), filed October 14, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(a)" or "Renewed Petition under 37 C.F.R. § 1.137(b)," as appropriate. Extensions of time under § 1.136(a) are permitted.

The above-identified application became abandoned for failure to timely file a proper reply to the non-final Office action mailed February 6, 2004. This Office action set a shortened statutory period for reply of three (3) months. No reply having been filed and no extensions of time obtained, the above-identified application became abandoned on May 7, 2004. A Notice of Abandonment was mailed on September 3, 2004.

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable. Petitioner asserts that neither applicants nor the attorney of record received the Office action mailed February 6, 2004.

A grantable petition under § 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 C.F.R. § 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 § 1.137(d).

The instant petition lacks item (3). Petitioner has failed to meet his or her burden of establishing that the delay in filing a reply was "unavoidable."

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. 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.

Petitioner has not shown that the delay resulted from an error on the part of an employee, or a failure of the mails, or that the delay was otherwise unavoidable given the exercise of due care.

Petitioner has not met the showing required to establish nonreceipt of an Office communication. The correspondence address of record at the time of mailing of the Office action was that of inventors Delavega, pursuant to a change of address filed June 12, 2003. A review of the Office action reveals that it was mailed to the address of the Delavegas. The presumption that the communication was properly mailed to the applicant at the correspondence address of record is not overcome.

The showing required to establish nonreceipt of the Office communication must include a statement from the practitioner (or applicants, in this case) 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 communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c) at 700-87; Withdrawing the Holding of Abandonment When Office Actions Are Not Received, 1156 O.G. 53 (November 16, 1993). If petitioner wishes to have the holding of abandonment reconsidered, a thorough explanation with documentary evidence consistent with this guidance must be submitted.

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a request for reconsideration pursuant to 37 C.F.R. §1.137(b) on the basis of unintentional delay. A grantable petition under § 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 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 this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to § 1.137(d).

Further correspondence with respect to this decision 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: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: Effective June 5, 2004, patent correspondence delivered by hand or delivery services, **other than the USPS**, to the Customer Window must be addressed as follows:

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

Kevin P. Crosby
BRINKLEY MCNERNAY MORGAN SOLOMON & TATUM
200 East Las Olas Blvd.
New River Center Suite 1900
Fort Lauderdale, FL 33301

COPY MAILED

DEC 16 2004

OFFICE OF PETITIONS

In re Application of :
Delavega et al. :
Application No. 10/120,308 : DECISION ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. 7841-02302 :

This is a decision on the RENEWED PETITION UNDER 37 C.F.R. § 1.137(a), filed November 30, 2004.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(a)" or "Renewed Petition under 37 C.F.R. § 1.137(b)," as appropriate. Extensions of time under § 1.136(a) are permitted.

The above-identified application became abandoned on May 7, 2004 for failure to timely file a proper reply to the non-final Office action mailed February 6, 2004. By decision mailed November 2, 2004, the initial petition under § 1.137(a) was dismissed for failure to make an adequate verified showing of unavoidable delay. Petitioner contended that the Office action had not been received by either applicants or the attorney of record. However, petitioner failed to make an adequate showing of nonreceipt.

On instant renewed petition, petitioner submitted the declarations of joint inventors Diana and John Delavega, as well as, the declaration of patent attorney Kevin Crosby.

A grantable petition under § 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 C.F.R. § 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 § 1.137(d).

The instant petition still does not satisfy requirement (3). Petitioner has not shown that the delay resulted from an error on the part of an employee, or a failure of the mails, or that the delay was otherwise unavoidable given the exercise of due care. (It is specifically noted that the mailing of the Office action to applicants in Florida preceded by more than 5 months the United States Postal Service Interruption and Emergency due to Hurricanes Frances, Ivan and Jeanne).

Petitioner has not met the showing required to establish nonreceipt of an Office communication at the correspondence address of record. The correspondence address of record at the time of mailing of the Office action was that of inventors Delavega, pursuant to a change of address filed June 12, 2003. Thus, attorney Crosby's declaration and evidence, in support of a showing of nonreceipt at the law firm, is not relevant.

Petitioners' burden is to establish nonreceipt at the home of inventors Delavega. Petitioners still have not overcome the presumption that the communication was properly mailed to the applicants at the correspondence address of record. Applicants state that the Office communication was not received by them at their home and that a search of our records confirms that we did not receive the February 6, 2004 Office action. However, these declarations are not supported with copies of docket records where the non-received communication would have been entered had it been received. See MPEP 711.03(c) at 700-87; Withdrawing the Holding of Abandonment When Office Actions Are Not Received, 1156 O.G. 53 (November 16, 1993).

Applicants are not relieved from submitting adequate evidence of nonreceipt because the application papers were mailed to their home or because they were acting in a pro se capacity at the time of mailing of the Office action. Such an applicant should have some written records evidencing receipt of communications from and mailing of communications to the Office available to provide proof of nonreceipt. It is suggested that applicants maintain a log of communications from and to the Office, with dates of receipt, due dates and mailing dates of responses and other papers filed noted. Furthermore, applicants may maintain entries on the file jackets noting these important dates. Absent persuasive evidence, applicants may not be able to overcome the presumption that the correspondence was properly mailed and received at the correspondence address of record and thereafter, misplaced by applicants.

Having not made an adequate showing of non-receipt of the Office action or otherwise, shown unavoidable delay, the petition cannot be granted under §1.137(a).

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a request for reconsideration pursuant to 37 C.F.R. §1.137(b) on the basis of unintentional delay. A grantable petition under § 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 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 this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to § 1.137(d).

Further correspondence with respect to this decision 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: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: Effective June 5, 2004, patent correspondence delivered by hand or delivery services, **other than the USPS**, to the Customer Window must be addressed as follows:

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

Kevin P. Crosby
BRINKLEY MCNERNAY MORGAN SOLOMON & TATUM
200 East Las Olas Blvd.
New River Center Suite 1900
Fort Lauderdale, FL 33301

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FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Delavega et al.	:	
Application No. 10/120,308	:	DECISION ON PETITION
Filed: April 10, 2002	:	
Attorney Docket No. 7841-02302	:	

This is a decision on the Renewed Petition under 37 C.F.R. § 1.137(b), filed January 21, 2005.

The above-identified application became abandoned on May 7, 2004 for failure to timely file a proper reply to the non-final Office action mailed February 6, 2004. By decision mailed November 2, 2004, the initial petition under § 1.137(a) was dismissed for failure to make an adequate verified showing of unavoidable delay. On renewed petition under § 1.137(a), petitioner submitted additional declarations to support a showing of unavoidable delay. This evidence was considered but still not found adequate to meet petitioners' burden of establishing to the satisfaction of the Director that the delay was unavoidable within the meaning of § 1.137(a).

On instant renewed petition under § 1.137(b), petitioners have submitted the required statement that the entire delay in filing the required reply was unintentional and have paid the required petition fee. The other requirement of § 1.137(b), submission of the required reply, was met on petition under § 1.137(a).

In view thereof, the petition is **granted**.

Technology Center AU 3632 has been advised of this decision reviving the application. The amendment filed October 14, 2004 will be considered by the examiner in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 7

JACQUELINE E. HARTT, PH.D
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P.O. BOX 3791
ORLANDO FL 32802-3791

COPY MAILED

MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of
Hensley, et al.
Application No. 10/120,320
Filed: April 10, 2002
Attorney Docket No. 94004.CON2
For: SOLAR ENERGY COLLECTION DEVICE AND ASSOCIATED METHODS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 10, 2005 (certificate of mailing date January 5, 2005), to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers, mailed May 21, 2002, which set a period for reply of two (2) months. No extensions of time having been obtained pursuant to 37 CFR 1.136(a), this application became abandoned on July 22, 2002 for lack of reply. A Notice of Abandonment was mailed on October 31, 2003.

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(a) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).This petition lacks item (2).

Regarding (2) above, the payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived. MPEP 711.03(c)(III)(B). Therefore, consideration of the merits of the petition before receipt of the full petition fee is prohibited.

The current large entity fee for filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is set forth in 37 CFR 1.17(m) as $1500.00. A review of Office records indicates that petitioner has paid $1,370.00 for the petition fee. **Petitioners must submit an additional $130.00 before the Office will consider the merits of the petition.**

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JACQUELINE E. HARTT
255 S. ORANGE AVENUE, SUITE 1401
P.O. BOX 3791
ORLANDO, FL 32802-3791

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 9

JACQUELINE E. HARTT, PH.D
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P.O. BOX 3791
ORLANDO FL 32802-3791

COPY MAILED

AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Hensley, et al. :
Application No. 10/120,320 :
Filed: April 10, 2002 :
Attorney Docket No. 94004.CON2 :
For: SOLAR ENERGY COLLECTION DEVICE
AND ASSOCIATED METHODS

DECISION ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed August 1, 2005 (certificate of mailing date July 29, 2005), to revive the above-identified application.

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 above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers, mailed May 21, 2002, which set a period for reply of two (2) months. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply referencing this application being received in the Office, this application became abandoned on July 22, 2002. A Notice of Abandonment was mailed on October 31, 2003.

Applicants have submitted a reply in the form of a substitute drawings, an acceptable statement of the unintentional nature of the delay in responding to the May 21, 2002 Notice, and the petition fee.

The petition under 37 CFR 1.137(b) is **GRANTED**.

After the mailing of this decision, the application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JACQUELINE E. HARTT, PH.D.
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
255 SOUTH ORANGE AVENUE, SUITE 1401
P.O. BOX 3791
ORLANDO, FL 32802

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-05-09

TO SPE OF : ART UNIT 1614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/120362 Patent No.: 7414077

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

3/10/09

ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER

SPE

1614
Art Unit

PTO/SB/44 (07-03)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,414,077 B2

DATED : August 19, 2008

INVENTOR(S) : Marco Chacon

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Insert "is oleoyl CoA," in claim 2, line 6 under subsection (b) after "long chain free fatty acid CoA".

MAILING ADDRESS OF SENDER:

PATENT NO.

HUNTON AND WILLIAMS LLP
1900 K Street, NW, Suite 1200
Washington, DC 20006-1109

Attorney Docket No.: 62640.000001

No. of additional copies 1

1 of 1

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the complete 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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/120,362	04/12/2002	Marco Chacon	62640.000001	9532

21967 7590 03/16/2009

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

EXAMINER	
KWON, BRIAN YONG S	
ART UNIT	PAPER NUMBER
1614	

MAIL DATE	DELIVERY MODE
03/16/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090306

DATE : March 06, 2009

TO SPE OF : ART UNIT 1614

SUBJECT : Request for Certificate of Correction on Patent No.: 10/120362

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:

/Ardin Marschel/
Supervisory Patent Examiner, Art Unit 1614

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INTELLECTUAL PROPERTY DEPT.
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ROCKVILLE, MD 20850

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MAY 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Craig A. Rosen et al :
Application No. 10/120,377 : ON PETITION
Filed: April 12, 2002 :
Attorney Docket No. PF112P8 :

This is a decision on the petition under 37 CFR 1.313(c)(3), filed May 10, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: HUMAN GENOME SCIENCES, INC.
9410 KEY WEST AVENUE
ROCKVILLE, MD 20850

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ARLINGTON VA 22203

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MAY 15 2006

OFFICE OF PETITIONS

In re Application of :
Timothy N.C. Wells et al :
Application No. 10/120,394 :
Filed: April 12, 2002 :
Attorney Docket No. 1430-278 :

ON PETITION

This is a decision on the petition, filed May 8, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 12, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1646 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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APR 2 3 2004

OFFICE OF PETITIONS

Applicant: Rosen et al.
Appl. No.: 10/120,398
Filing Date: April 12, 2002
Title: VASCULAR ENDOTHELIAL GROWTH FACTOR 2
Attorney Docket No.: PF112P7
Pub. No.: US 2003/0170786 A1
Pub. Date: September 11, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on November 12, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a mistake in dependent claims 32 and 75.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The request for corrected publication received on November 12, 2003, was not timely filed under 37 CFR 1.221(b).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

§ 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-872-9306

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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APR 27 2004

OFFICE OF PETITIONS

Applicant: Rosen et al.
Appl. No.: 10/120,398
Filing Date: April 12, 2002
Title: VASCULAR ENDOTHELIAL GROWTH FACTOR 2
Attorney Docket No.: PF112P7
Pub. No.: US 2003/0170786 A1
Pub. Date: September 11, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on November 12, 2003. This is a supplemental response to the request filed November 12, 2003 because the request was not late as November 11, 2003 was a federal holiday.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a mistake in dependent claim 32, clause (g) wherein the phrase "full-length VEGF-2 polypeptide" is misprinted as "full-length VwGF-2 polypeptide" and in dependent claim 57 wherein the phrase "antibody of claim 21; and (b) comparing the level" is misprinted as "antibody of claim 21; and pl (b) comparing the level".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The errors noted by requestor are Office errors, but they are minor typographical errors, which are clearly understandable. With respect to "VEGF", the phase is written correctly throughout

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

the claim and the specification and is clearly understandable. With respect to the two misplaced letters in dependent claim 57, this is also understandable as a minor typographical error. The mistakes are minor typographical errors which are clearly understandable from reading the specification and claim in which each term is used, as terms are not read in a vacuum. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-872-9306

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of :
Paul Lapstun et al :
Application No. 10/120,441 : LETTER
Filed: April 12, 2002 :
Attorney Docket No. NPT009US :

This is in response to the paper, filed April 24, 2006, treated under 37 CFR 1.28(b) requesting that status as a Small Entity be removed.

In accordance with the April 24, 2006 request, status as a Small Entity has been removed. Accordingly, all future fees due must be paid at the large entity rate to avoid the abandonment of the application.

This file is being referred to Publishing Division to await payment of the issue and publication fees as required by the Notice of Allowance and Fee(s) Due, mailed March 27, 2006. Failure to timely reply will result in the abandonment of the application.

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No. 15

JAN 11 2005

McDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington DC 20005-3096

In re Application of:
Hiroaki Tanizaki
Serial No.: 10/120,442
Filed: April 12, 2002
Attorney Docket No.: **57454-481**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed January 27, 2004, and resubmitted on June 07, 2004, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due (Notice of Allowance) mailed on July 23, 2003. A Notice of Abandonment was mailed on December 05, 2003.

Petitioner asserts that the Notice of Allowance mailed on July 23, 2003, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Notice of Allowance was not received. A copy of the file docket where the Notice of Allowance would have been entered was also included.

A review of the written record indicates no irregularity in the mailing of the Notice of Allowance, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition is accompanied by a showing that establishes non-receipt of the Notice of Allowance mailed July 23, 2003. As such, the petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notice of Allowability and a Notice of Allowance and Issue Fee Due. The statutory period for response set therein will be reset to run from the date the Notices are re-mailed. Extensions of time for these periods are not available. See 37 C.F.R. § 1.136(c), effective November 07, 2000.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/14/08

TO SPE OF : ART UNIT 3724 Jason Prone

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/120472 Patent No.: 7007580

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: _____

BOYER D. ASHLEY
~~SUPERVISORY PATENT EXAMINER~~

SPE 3724 **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/10/07

Paper No.: ———

TO SPE OF : ART UNIT 2137

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/120489 Patent No.: 7130422B2

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.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

E. Yoo
SPE

2137
Art Unit

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of
Kumbhani, et al. :
Application No. 10/120,501 : Decision on Application
Filing Date: April 12, 2002 : For Patent Term Adjustment
Attorney Docket No. 054209-0105 :

This is a decision in response to "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705," filed January 17, 2006. The paper requests correction of the patent term adjustment from zero (0) days to one hundred sixty-four (164) days, partly on the basis of the Office taking in excess of three years to issue the patent.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentees may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

The application for patent term adjustment is **granted to the extent indicated herein.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero (0) days, including 12 days of Office delay and 116 days of Applicant delay. Please note the change in the number of days in "Applicant Delay". A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 18, 2005, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised of a patent term adjustment to date of zero (0) days. In response, applicants timely filed the instant request for reconsideration of the patent term adjustment.[1] Applicants request that the patent term adjustment be corrected to 164 days.

As stated above, the portion of the petition that relates to Office delay beyond three years in issuing the patent is held in abeyance. However, patent term adjustment relating to events prior to patent issuance should be made. Petitioners state that their delay should be increased by 32 days because the Office mailed a Notice To File Missing Parts of Nonprovisional Application on May 14, 2002 and applicants did not file a response until September 15, 2002.

37 CFR 1.704(b) provides for a reduction when a petitioner takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request. 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 37 CFR 1.704(b).

> The three-month period applies to all Notices which require a response. These notices include:
>
> (1) a Notice of Incomplete Nonprovisional Application (PTO-1123) (except as to any period prior to the filing date ultimately accorded to the application);
> (2) a Notice to File Missing Parts of Application (PTO-1533);
> (3) a Notice of Informal Application (PTO-152);
> (4) a Notice to File Corrected Application Papers Filing Date Granted (PTO-1660); and
> (5) a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661).

Since applicants did not file a response within three months of the mail date of the May 14, 2002 Notice to File Missing Parts of Nonprovisional Application, applicants should be assessed 32 days of delay.

The application history has been reviewed and it has been determined that the initial patent term adjustment of zero (0) days is correct, but the total applicant delay should be increased by 32 days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. This fee is required and will not be waived.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment shown on the patent (and in the Issue Notification mailed

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[1] The issue fee was paid on January 17, 2006.

approximately three weeks prior to issuance) will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.703(b).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Shirene Willis Brantley at (571) 272-3230

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised Pair Screen

Day : Thursday
Date: 9/14/2006

PALM INTRANET

Time: 08:37:26

PTA Calculations for Application: 10/120501			
Application Filing Date:	04/12/2002	PTO Delay (PTO):	12
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	84
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-32		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
60	09/14/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		32	
41	10/18/2005	MAIL NOTICE OF ALLOWANCE			
40	10/17/2005	ISSUE REVISION COMPLETED			
39	10/17/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	10/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
37	10/17/2005	NOTICE OF ALLOWABILITY			
36	09/19/2005	DATE FORWARDED TO EXAMINER			
35	09/12/2005	AMENDMENT AFTER FINAL REJECTION		52	33
34	09/12/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	04/22/2005	MAIL FINAL REJECTION (PTOL - 326)	12		29
32	04/18/2005	FINAL REJECTION			
31	04/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
30	01/04/2005	DATE FORWARDED TO EXAMINER			
29	12/10/2004	RESPONSE AFTER NON-FINAL ACTION			
28	12/10/2004	WORKFLOW INCOMING AMENDMENT IFW			
27	09/10/2004	MAIL NON-FINAL REJECTION			
26	09/07/2004	NON-FINAL REJECTION			
25	08/03/2004	DATE FORWARDED TO EXAMINER			
24	07/20/2004	AMENDMENT AFTER FINAL REJECTION			
23	07/20/2004	WORKFLOW INCOMING AMENDMENT IFW			
22	04/20/2004	MAIL FINAL REJECTION (PTOL - 326)			
21	04/19/2004	FINAL REJECTION			
20	02/04/2004	DATE FORWARDED TO EXAMINER			
19	01/22/2004	RESPONSE AFTER NON-FINAL ACTION			
18	10/22/2003	MAIL NON-FINAL REJECTION			

17	10/20/2003	NON-FINAL REJECTION			
16	08/06/2003	DATE FORWARDED TO EXAMINER			
15	07/28/2003	RESPONSE AFTER NON-FINAL ACTION		32	13
14	07/28/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
13	03/26/2003	MAIL NON-FINAL REJECTION			
12	03/24/2003	NON-FINAL REJECTION			
11	03/02/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	09/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	11/01/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	10/02/2002	APPLICATION DISPATCHED FROM OIPE			
7	10/01/2002	APPLICATION IS NOW COMPLETE			
6	09/16/2002	ADDITIONAL APPLICATION FILING FEES			
5	09/16/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
2	04/25/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/12/2002	INITIAL EXAM TEAM NN			

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OFFICE OF PETITIONS

In re Application of
Jay S. Walker et al
Application No. 10/120,529
Filed: April 10, 2002
Attorney Docket No. 00-059

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 15, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications.

The petition is again **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
>
> **(2)** the surcharge set forth in § 1.17(t); and
>
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

This petition lacks item (1) above.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

Again, the claim for benefit of the prior-filed applications cannot be accepted since the amendment filed on September 15, 2003 still suffers essentially from the same deficiencies as noted in the decision mailed August 5, 2003. As previously stated, 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 ---" **(inclusion of the title of the invention of each application is not necessary)**. *See* Manual of Patent Examining Procedure (8th ed., August 2001), Section 201.11, Reference to First Application.

In the instant case, the amendment submitted September 15, 2003, cannot be entered since the relationship of each application to the other is not clearly stated and/or has a filing date **later** than the filing date of the application to which priority is being claimed. More specifically, as an example, on page 3 of the amendment of September 15, 2003, the amendment states that Application No. 08/982,149, **filed December 1, 1997** is a continuation-in-part of Application No. 08/994,426, **filed December 19, 1997**. Since the filing date of Application No. 08/994,426 has a filing date later than Application No. 08/982,149, this application cannot claim priority to that application; i.e., the filing date of 08/994,426 must be earlier than the filing date of 08/982,149. If in fact the present application is a continuation-in-part of all the other applications or some of the applications, the word "and is a continuation-in-part" must be used to denote the relationship of the instant application to the other applications to which priority is sought. ***Petitioner should also carefully review the entire amendment to ensure that each application has an earlier filing date than the application to which priority is being claimed and clearly states the relationship of each application to the other and/or to the instant application***.

Petitioner is also reminded that, where an application claims a benefit under 35 U.S.C. § 120 of a chain of applications, the application must make a reference to the first (earliest) application and **every intermediate application**. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). *See also* MPEP § 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d).

Lastly, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. §

120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

Also, note MPEP Section 201.06(c), which states:

> For the incorporation by reference 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 transmittal letter-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment correcting the above-noted deficiencies,[2] 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 PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:[3] 2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

---

[2] *Note* 37 CFR 1.121

[3] Effective December 1, 2003, the Office of Petitions can no longer directly receive hand-carried correspondence. The centralized location for hand-carried correspondence is the Customer Window now located at the address given.

By FAX: [4] (703) 872-6906
ATTN: Office of Petitions.

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[4] Effective December 1, 2003, the Office of Petitions can no longer directly receive facsimile transmissions of correspondence.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 11

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

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OFFICE OF PETITIONS

In re Application of :
Jay S. Walker et al :
Application No. 10/120,529 : ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. 00-059 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 27, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of several 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). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The reference to the above-noted, prior-filed nonprovisional applications was not included in the manner specified in 37 CFR 1.78(a)(2) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2)(ii).

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on January 27, 2003. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment deleting the incorporation by reference statement is required.

In order to expedite consideration, petitioner may wish to submit the substitute amendment by facsimile transmission to the number indicated below and to the attention of Karen Creasy **.**

Further correspondence with respect to this matter should be addressed as follows:

By mail: U.S. Patent and Trademark Office
P.O. Box 2327
Mailstop DAC
Arlington, VA 22202

OR

Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 15

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

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OFFICE OF PETITIONS

In re Application of :
Jay S. Walker et al :
Application No. 10/120,529 : ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. 00-059 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 7, 2003, and supplemented on May 21, 2003 and May 28, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to 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). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

> claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

This petition lacks item (1) above.

The claim for benefit of the prior-filed applications cannot be accepted at this time. In this regard, 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 ---" **(inclusion of the title of the invention of each application is not necessary)**. *See* Manual of Patent Examining Procedure (8th ed., August 2001), Section 201.11, Reference to First Application.

In the instant case, in particular, the amendment submitted May 21, 2003, this amendment cannot be entered since the relationship of each application to the other is not clearly stated and/or has a filing date **later** than the filing date of the application to which priority is being claimed. More specifically, as an example, on page 3 of the amendment of May 21, 2003, the amendment states that Application No. 08/707,660, **filed September 4, 1996** is a continuation-in-part of Application No. 09/100,684, **filed June 19, 1998**. Since the filing date of Application No. 09/100,684 has a filing date later than Application No. 08/707,660, this application cannot claim priority to that application; i.e., the filing date of 09/100,684 must be earlier than the filing date of 08/707,660. If in fact the present application is a continuation-in-part of all the other applications or some of the applications, the word "and is a continuation-in-part" must be used to denote the relationship of the instant application to the other applications to which priority is sought. Petitioner should also review the rest of the amendment to ensure that each application has an earlier filing date than the application to which priority is being claimed.

Petitioner is also reminded that, where an application claims a benefit under 35 U.S.C. § 120 of a chain of applications, the application must make a reference to the first (earliest) application and **every intermediate application**. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972);

Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). *See also* MPEP § 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment correcting the above-noted deficiencies, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

If reconsideration of this decision is desired, and in order to expedite consideration thereof, petitioner may wish to submit the renewed petition by facsimile transmission to the number indicated below and to the attention of the undersigned.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

By Fax: (703) 308-6916
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GREGORY P. LAPOINTE
BACHMAN & LaPOINTE, P.C.
900 CHAPEL STREET, SUITE 1201
NEW HAVEN, CT 06510-2802

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OFFICE OF PETITIONS

In re Application of :
Chun et al. :
Application No. 10/120,535 : ON PETITION
Filed: April 9, 2002 :
Attorney Docket No. 02-340 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 3, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of Corrected Formal Drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Martin A. Hay
13 Queen Victoria Street
Macclesfield Cheshire UK SK11 -6LP GB
UNITED KINGDOM

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OFFICE OF PETITIONS

In re Application of	:	
Senanayake et al.	:	
Application No. 10/120,541	:	DECISION ON APPLICATION
Filed: April 12, 2002	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
4821-399-999	:	

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Indicated in Notice of Allowance (37 CFR 1.705), filed January 3, 2006. This matter is being properly treated under 37 CFR 1.705(b) as a timely filed application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred twenty-two **(422)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 12, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 12 days. On January 3, 2006, applicant timely submitted the instant application for patent term adjustment[1]. Applicant requests that the Determination of Patent Term Adjustment be corrected from 12 days, as indicated on the Determination of PTA mailed October 12, 2005, to an adjustment of 636 days. In support of this assertion, applicant provides that the notification under 35 U.S.C. § 132 was mailed by this Office on March 9, 2005. The mailing, a Restriction requirement, stated that

[1] PALM records show that the Issue Fee payment was received in the Office on January 3, 2006.

"[t]his Office action supersedes the previous Office action mailed July 26, 2004, which has been entered in the file."

Applicant states that the patent issuing from this application is not subject to a terminal disclaimer.

The circumstances of the mailing of the first Office action have been considered. The July 26, 2004 was a proper mailing in compliance with 35 U.S.C. § 132, and thus, the period of delay pursuant to § 1.702(a)(1) is properly calculated using this date. The mailing of a new Office action on March 9, 2005 does not, as argued by applicant, constitute an additional delay within the meaning of 35 U.S.C. 154(b) and § 1.702(a)(1). Thus, the period of delay for the Office taking in excess of 14 months to mail the first Office action is 410 days (counting the number of days in the period from June 13, 2003 to July 26, 2004).

In connection with the mailing of the Office action on March 9, 2005, an adjustment of 12 days was properly attributed to the Office in accordance with 37 CFR 1.702(a)(2).

In view thereof, at the time of allowance, the application is entitled to an adjustment of 422 days.

Applicant's deposit account has been charged the petition fee of $200.00 as authorized in the instant petition.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Martin A. Hay
13 Queen Victoria Street
Macclesfield Cheshire UK SK11 -6LP GB
UNITED KINGDOM

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OFFICE OF PETITIONS

In re Patent No. 7,064,214	:	DECISION ON REQUEST
Senanayake et al.	:	FOR RECONSIDERATION OF
Application No. 10/120541	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 04/12/2002	:	and
Atty Docket No. 4821-399-999	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON PATENT," filed July 13, 2006. Pursuant to patentee's duty of good faith and candor to the Office, patentee requests confirmation of the issuance of a patent term adjustment of 844 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 **four-hundred twenty-two (422)** days.

On July 13, 2006, patentee submitted the instant comment. On June 20, 2006, the above-identified application matured into U.S. Patent No. 7,064,214, with a revised patent term adjustment of 844 days. Patentee states no basis for the request for review of the patent term adjustment.

By decision mailed May 9, 2006, the Office corrected the patent term adjustment at the time of mailing of the notice of allowance to 422 days. (To implement this decision, the PTO entered an adjustment of PTA calculation of 410 days). At issuance of the patent, an additional 47 days of patent term adjustment was entered, pursuant to 1.702(a)(4), for Office delay in issuing the patent. Further, an additional 375 days of patent term adjustment was entered, pursuant to 1.703(b), for the Office taking in excess of three years to issue the patent after its actual filing date.

It is noted that the instant patent issued 3 years and 375 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). In this instance, the period of delay totalling 375 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 469 attributable to grounds specified in § 1.702(a)(1), (2) and (4). Thus, no additional period of adjustment should have been entered beyond the 469 days.

In view thereof, the patent should have issued with a revised Patent Term Adjustment of four-hundred sixty-nine (469) days.

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 application fee under 37 CFR 1.705(b). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four-hundred sixty-nine (469) 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 : 7,064,214 B2

DATED : June 20, 2006

INVENTOR(S) : Senanayake 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 (844) days

Delete the phrase "by 844 days" and insert – by 469 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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MAY 10 2004

Director's Office
Group 3700

Jeffrey D. Harty
McKee, Voorhees & Sease, P.L.C.
801 Grand Avenue, Suite 3200
Des Moines, Iowa 50309-2721

In re application of
Richard A Burger

Serial Number: 10/120568
Filed: April 11, 2002

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **AIR CONDITIONING SYSTEM**

This is a decision on the petition filed on April 11, 2003, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 5/2/04

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

Booth Udall, PLC
1155 W Rio Salado Parkway
Suite 101
Tempe, AZ 85281

Mail Date: 04/20/2010

Applicant	: Abhay Vinayak Parasnis	: DECISION ON REQUEST FOR
Patent Number	: 7574383	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/120,571	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **999** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Booth Udall, PLC
1155 W Rio Salado Parkway
Suite 101
Tempe, AZ 85281

Mail Date: 05/17/2010

Applicant : Abhay Vinayak Parasnis
Patent Number : 7574383
Issue Date : 08/11/2009
Application No: 10/120,571
Filed : 04/10/2002

: 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 **1024** 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT GREESON & DAVID HENRY
P.O. BOX 1470
WACO TX 76703

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OFFICE OF PETITIONS

In re Application of :
Clayton Shumake :
Application No. 10/120,594 : ON PETITION
Filed: 11 April, 2002 :
For: HAT AND UNIFORM CADDY :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on 19 December, 2005.

The petition is **GRANTED**.

The application became abandoned on 4 February, 2004, for failure to file a proper response to the final Office action mailed on 23 October, 2003, which set a three (3) month shortened statutory period for reply. A reply was filed on 9 January, 2004 (certificate of mailing date 15 December, 2003), but that reply was determined not to place the case in *prima facie* condition for

[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)).

allowance, and an Advisory Action was mailed on 4 February, 2004. An untimely amendment after final and two (2) month extension of time were filed on 9 June, 2004 (certificate of mailing date 3 June, 2004). Notice of Abandonment was mailed on 15 June, 2004.

The petition is accompanied by an amendment after final rejection. As the examiner has determined that the amendment is a proper reply and should be entered, the petition may be favorably considered.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The two-month extension request filed on 9 June, 2004 (certificate of mailing date 3 June, 2004), was submitted more than three (3) months after the end of the period for reply to the Office communication mailed on 13 October, 2003. Petitioner may request a refund by writing to the Office of Finance, ATTN: Refund Section, within two (2) months of the mailing date of this decision. A copy of this decision should accompany petitioner's request.

The application is being referred to Technology Center Art Unit 3634 for further processing.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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TERRANCE A. MEADOR
INCAPLAW
1050 ROSECRANS STREET
SAN DIEGO, CA 92106

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OFFICE OF PETITIONS

In re Application of	:	
Fu et al.	:	
Application No. 10/120,599	:	ON PETITION
Filed: April 9, 2002	:	
Attorney Docket No. AMCC9140	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 5, 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 Issue Fee Transmittal with payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to 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

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

In re Application of: Bahman Zargham, et al.
Application No. 10/120,606
Filed: April 10, 2002
For: METHOD AND SYSTEM FOR SUPPORTING A SYSTEM CALL AND INTERPROCESS COMMUNICATION IN A FAULT-TOLERANT, SCALABLE DISTRIBUTED COMPUTER ENVIRONMENT

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

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.

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OFFICE OF PETITIONS

In re Application of :
Spanner et al. :
Application No. 10/120,608 : DECISION ON PETITION
Filed: April 12, 2002 :
Atty Docket No. 024944-166 :

This is a decision on the PETITION UNDER 37 CFR 1.78(a)(3) TO ACCEPT UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C. 365(c), filed October 23, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed Swedish Application 01014099-1 filed on April 20, 2001. For the reasons stated herein, this petition is properly treated pursuant to 37 CFR 1.55.

The petition under 37 CFR 1.55(c) is **DISMISSED AS MOOT**.

In response to the Notice of Allowability, applicant submits the instant petition along with a certified copy of the priority document and payment of the issue fee. On petition, applicant notes that the claim for priority to the Swedish Application was set forth in the original declaration.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is applicable to applications filed on or after November 29, 2000, where the period specified in 37 CFR 1.78(a)(2)(ii) has expired without the proper reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) having been submitted. Whereas a petition under the provisions of 37 CFR 1.55(c) is appropriate where the claim for priority is submitted

after the period specified in 37 CFR 1.55(a)(1)(i). In this instance, a claim for priority under 35 U.S.C. § 119, not 35 U.S.C. § 120, to the Swedish Application was timely submitted on filing of the application. (A § 119 claim, unlike a § 120 claim, may be set forth in an oath/declaration). Moreover, the examiner in the Notice of Allowability acknowledged the claim for foreign priority under 35 U.S.C. § 119. Thus, there is no issue of an unintentionally delayed claim for priority under 35 U.S.C. 119(a)-(d) with respect to the Swedish Application.

Rather, the examiner noted that none of the certified copies of the priority document have been received. The certified copy of the priority document was received with the payment of the issue fee on October 23, 2007. 37 CFR 1.55(a)(2) requires only that the claim for priority and the certified copy of the foreign application specified in 35 U.S.C. 119(b) or PCT Rule 17 must, in any event, be filed before the patent is granted. If the claim for priority or the certified copy of the foreign application is filed after the date the issue fee is paid, it must be accompanied by the processing fee set forth in § 1.17(i), but the patent will not include the priority claim unless corrected by a certificate of correction under 35 U.S.C. 255 and §1.323. As the certified copy was filed with the issue fee payment, no processing fee or certificate of correction is required.

In view of the above, the $1,410.00 surcharge submitted is unnecessary and will be refunded to petitioner's credit card in due course.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries regarding this decision may be directed to the undersigned at 571-272-3219. As the issue fee has been paid, any dispute of this decision should be submitted as soon as possible, with a call to the undersigned.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEEDLE & ROSENBERG PC
999 PEACHTREE STREET, SUITE 1000
ATLANTA, GA 30309-3915

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OFFICE OF PETITIONS

In re Application of
Nianxi Yan
Application No. 10/120,621
Filed: April 11, 2002
Attorney Docket No. 15113.0002U1

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed November 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1711 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
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YOUNG LAW FIRM, P.C.
ALAN W. YOUNG
4370 ALPINE ROAD
SUITE 106
PORTOLA VALLEY CA 94028

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OFFICE OF PETITIONS

In re Application of	:	
Gatto et al.	:	
Application No. 10/120,635	:	ON PETITION
Filed: April 10, 2002	:	
Attorney Docket No. CYBS5805	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 22, 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 Response to the Office Communication; (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 3700 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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OFFICE OF PETITIONS

In re Application of	:	
Mukerji et al.	:	
Application No. 10/120,637	:	ON PETITION
Filed: April 11, 2002	:	
Attorney Docket No. 6804.US.P1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 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 Corrected Formal Drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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Paper No. 6

Webb Ziesenheim Logsdon
Orkin & Hanson, P.C.
Suite 700
436 Seventh Avenue
Pittsburgh, PA 15219

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OFFICE OF PETITIONS

In re Application of
William Howland
Application No. 10/120,661
Filed: April 11, 2002
Attorney Docket No. 1880-012041

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(f)

This is a decision on the "Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f)," filed June 30, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed on April 7, 2003, in a foreign country, or under a multinational international treaty, that requires publication of applications eighteen months after filing. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the foreign or international application[1].

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after

[1] A Rescission of Nonpublication Request was filed on April 14, 2003. However, it was not accompanied by a Notice of Foreign Filing.

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 2858 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

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In re Patent No. 6842029
Issue Date: 1/11/05
Appl No.: 10/120,661
Filed: April 11, 2002

REQUEST FOR CONSIDERING IDS
GRANTED

This is a decision on the request to consider the IDS filed 7/17/02. In view of the fact that the IDS should have been considered, the request is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate to include the references from the IDS.

Edward Lefkowitz
Supervisory Patent Examiner
Art Unit 2858
Patent Examining Group 2800

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

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PORTOLA VALLEY, CA 94028

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OFFICE OF PETITIONS

In re Application of :
Jean-Marie Gatto et al :
Application No. 10/120,668 : ON PETITION
Filed: April 10, 2002 :
Attorney Docket No. CYBS5806 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 16, 2003, which set a shortened statutory period for reply of three (3) months. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 17, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

This matter is being referred to Technology Center AU 3714 for processing of the request for continued examination (RCE) under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

5/19/09

Patent No. :7052480
Inventor(s) :Han et al.
Issued : 5/30/2006
Title : ACESS DISCONNECTION SYSTEMS AND METHODS
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals col.16 claim 12, line 40 to 41 is printed in accordance with the record and please show evidence of an amendment or document. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

Robert W. Connors
K&L Gates, LLP
P.O. Box 1135
Chicago, Illinois 60690-1135

HR/MD

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ERNEST D. BUFF
ERNEST D. BUFF & ASSOCIATES, LLC
245 SOUTH STREET
MORRISTOWN, NJ 07960

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OFFICE OF PETITIONS

In re Application of :
Carroll King Schuller :
Application No. 10/120,711 : ON PETITION
Filed: April 11, 2002 :
Attorney Docket No. 0074-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 2004, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The 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 is being referred to Technology Center AU 2654, for further processing of the request for continued examination under 37 CFR 1.114 filed September 18, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

Mailed: JUN 17 2004

rvk
Paper No. #7

In re application of:
John McNair
Serial No.: 10/120,754
Filed: April 11, 2002
For: COOKING APPLIANCE

DECISION ON
PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed January 26, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of December 31, 2003, for failure to timely file a proper reply to the Office letter mailed on June 11, 2003 be withdrawn. The petitioner asserts that applicant timely filed a proper response with a petition and fee for a three month extension of time on December 11, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicant did reply to the Office letter of June 11, 2003 in a timely manner. The submitted evidence are: (1) a copy of the response and petition for extension of time along with an executed Certificate of Mailing dated December 11, 2003 (Exhibit A); and (2) a copy of the returned stamped postcard showing receipt of the Response and fee by the PTO dated December 15, 2003 (Exhibit B).

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The case will be forwarded to the Technical Support Staff for

entering of the Response dated December 11, 2003 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED.**

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ORUM & ROPTH
SUITE 1616
53W. JACKSON BLVD
CHICAGO, IL 60604

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

BEUSSE, BROWNLEE, BOWDOIN & WOLTER, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO, FL 32801

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OCT 0 3 2002

OFFICE OF PETITIONS

In re Application of
Cheung et al.
Application No.10/120,767
Filed: April 10, 2002
Attorney Docket Number: Cheung
2-1-1-28/075903-03

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR §1.47(a), filed July 8, 2002.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR §1.136(a).

The above-identified application was filed on April 10, 2002, without a signed oath or declaration.

Accordingly, on March 20, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring the basic filing fee, an executed oath or declaration and a $65.00 surcharge for its late filing.

In response, on July 8, 2002, applicant submitted the basic filing fees, claim fees, a $130.00 surcharge for late filing oath or declaration fee, the declaration of Mary V. Carter and a petition with its accompanying fee.

A grantable petition under 37 CFR §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 ; (3) the petition fee; and, (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) and (2).

As to item (1), rule 47 applicant has failed to demonstrate "diligent efforts" were made to find or reach non-signing inventor Cheung. See MPEP 409.03(d). The declaration of Mary V. Carter states the declaration and power of attorney, and assignment documents were sent to inventor Cheung's last known address. However, the documents were returned without forwarding address information. The declaration further states all attempts to locate inventor Cheung were to no avail.

The statements made in the Declaration of Mary V. Carter do not illustrate "diligent effort" was made to locate inventor Cheung. It is not sufficient to state attempts were made to locate inventor Cheung and not provide what those attempts were. Did rule 47 applicant contact known colleagues for a forwarding address of inventor Cheung? Was an electronic search conducted to locate the last known address?

Applicant should present copies of documentary evidence that support a finding that the non-signing inventor could not be found or reached and the steps taken to locate the non-signing inventor. If applicant provides sufficient evidence that diligent effort has been made to locate the inventor and inventor can not be located, 47 applicant is not required to send a copy of the application. Rule 47 applicant failed to show or provide proof the inventor can not be located.

If applicant does locate inventor Cheung, to make the case that the non-signing inventor refuses to execute the oath or declaration, applicant will need to establish a copy of the **entire** application package (including specification, claims and drawings) was presented to the non-signing inventor and he refused to sign.

As to items (2), the declaration does not comply with 37 CFR 1.63. Specifically, Jennifer Lynne Drown and Kim Elshot made changes to the declaration without initialing and dating the changes.

The Office acknowledges receipt of the substitute drawings submitted with the instant petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

for 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

COMMISSIONER FOR PATENTS
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Paper No. 9/10

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OFFICE OF PETITIONS

BEUSSE, BROWNLEE, BOWDOIN & WOLTER, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO, FL 32801

In re Application of
Jennifer Lynne Drown, Kim Elshot, Erik Cho, and Tingkwan Cheung
Application No.10/120,767
Filed: April 10, 2002
Attorney Docket Number: Cheung
2-1-1-28/075903-03

ON RENEWED PETITION

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 21, 2003 and supplemented March 5, 2003.

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).

Petitioner is entitled to a refund of the duplicate $130.00 payment for late oath/declaration surcharge. Petitioner should make a written request for refund and include a copy of this decision. The request for refund should be directed to the Office of Finance, Refund Section Commissioner for Patents, Washington, DC 20231.

The assignment documents submitted with the petition have been forwarded to the assignment branch.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

Factor & Partners
1327 W. Washington Blvd., Suite 5 G/H
Chicago, IL 60607

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JAN 2 1 2003

OFFICE OF PETITIONS

In re Application of
Fauteux et al.
Application No. 10/120,768
Filed: April 10, 2002
Attorney Docket No. ILI-011319

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 16, 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) have been obtained. Accordingly, the above-identified application became abandoned on July 17, 2002.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $720 extension of time submitted with the petition on December 19, 2002 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany the request of refund.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:66

DATE : March 13, 2005

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction on Patent No.: 6788460 B2 (10/120,785)

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:

Judy Nguyen

SPE: Judy Nguyen **Art Unit** 2851

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.

HUNTON & WILLIAMS
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

COPY MAILED
MAR 17 2004
OFFICE OF PETITIONS

In re Application of
Kircher et al.
Application No. 10/120,794
Filed: April 12, 2002
Attorney Docket No. 56325.000004

In re Application of
Kircher et al.
Application No. 10/403,665
Filed: November 8, 2002
For: PERFORATED DECKING

DECISION GRANTING PETITION

This is a decision on the PETITION TO TREAT CONTINUING PROSECUTION APPLICATION AS REGULAR CONTINUATION APPLICATION UNDER 37 CFR § 1.182, filed March 3, 2003, requesting that an improper Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of November 8, 2002. This decision is made in light of receipt of the SUBSTITUTE PETITION TO TREAT CONTINUING PROSECUTION APPLICATION AS REGULAR CONTINUATION APPLICATION UNDER 37 CFR § 1.182, filed July 18, 2003.

On April 12, 2002, application No. 10/120,794 was filed. On May 8, 2002, a Notice to File Missing Parts of Application was mailed to applicants. In response, and prior to the mailing of any Office actions, on November 8, 2002, applicants filed a request for a CPA under 37 CFR § 1.53(d) based on application No. 10/120,794. However, CPA practice no longer applies to applications, other than design applications, if the prior application was filed on or after May 29, 2000. Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000.

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR § 1.114.

Furthermore, Continued Examination under 37 CFR § 1.114 does not apply to an application unless prosecution in the application is closed. On November 8, 2002, prosecution in application No. 10/120,794 was not closed. The instant petition precedes the mailing of a Notice of Improper Request For Continued Examination (RCE). Moreover, applicants have filed no other reply to the Notice to File Missing Parts of Application mailed May 8, 2002.

On March 3, 2003, applicants filed the present petition. Applicants stated that the application was inadvertently labeled as a CPA, and indicated that they did not want the request for a CPA to be treated as a request for continued examination under 37 CFR § 1.114. Rather, applicants requested that the improper CPA be converted to an application under 37 CFR § 1.53(b). On July 18, 2003, applicants submitted a complete copy of the prior application as originally filed (without declaration), and a preliminary amendment[1].

The petition is granted.

The application under 37 CFR 1.53(b) filed on November 8, 2002, using the application papers submitted on July 18, 2003, has been assigned application No. 10/403,665. The CPA request and papers filed therewith, the present petition, the copy of the application as originally filed, and the preliminary amendment have been removed from the file of application No. 10/120,794 and have been placed in application No. 10/403,665. A copy of the CPA request and the present petition will be retained in application No. 10/120,794 to complete the record therein.

All future correspondence concerning the application under 37 CFR 1.53(b) should be directed to application No. 10/403,665, not application No. 10/120,794.

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[1] With the request for a CPA filed November 8, 2002, applicants submitted what was a specification and a preliminary amendment. However, a review of the papers reveals that the specification was not a true copy of the specification as originally filed. Accordingly, upon review of the petition, it was requested that applicants complete their petition by filing a true copy of the prior application as originally filed.

Since a response to the Notice to File Missing Parts has not been filed, application No. 10/120,794 is abandoned.

The Office finance records will be corrected to show that the $740.00 filing fee and the additional claim fees totaling $378.00, paid on November 8, 2002, were paid in application No. 10/403,665, not in application No. 10/120,794. Receipt of the $130.00 petition fee is acknowledged.

Receipt of the preliminary amendment filed February 26, 2004 is acknowledged.

Receipt of the supplemental Information Disclosure Statement filed February 20, 2004 is acknowledged.

Application No. 10/120,794 will be forwarded to the Office of Initial Patent Examination for processing as an abandoned application.

Application No. 10/403,665 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of November 8, 2002, using the copy of the original application papers submitted on July 18, 2003.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Nancy Johnson (703)305-0309.

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON, DC 20007-5118

Mail Date: 04/21/2010

Applicant	: Leonid Merkoulovitch	: DECISION ON REQUEST FOR
Patent Number	: 7599870	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/120,795	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1076** 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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CENTRAL FAX CENTER
FEB 20 2004
OFFICIAL

Applicant:	Medsker, et al.	Examiner:	Zalukaeva
Serial No:	10/120,807	Group Art Unit:	1713
Filed:	April 11, 2002	Date:	February 20, 2004

For: CO-MINGLED POLYURETHANE-POLYVINYL ESTER POLYMER COMPOSITIONS AND A PROCESS FOR FORMING THE SAME

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Our Firm, including all of the following attorneys are withdrawing from representation in the above-identified patent application.

Approved
Jacqueline M. Stone, Director
Technology Center 1700
SEP - 3 2004

Daniel J. Hudak, Reg. No. 25,879
Laura F. Shunk, Reg. No. 31,423
Cheryl L. Farine, Reg. No. 36,796
Frank C. Rote, Jr., Reg. No. 20,395
Nestor W. Shust, Reg. No. 23,034
Thomas M. Schmitz, Reg. No. 25,084
Michele M. Tyrpak, Reg. No. 42,192
Daniel J. Hudak, Jr., Reg. No. 47,669

I have received permission to sign this Notice of Withdrawal on behalf of all of the above-listed attorneys.

The Assignee, OMNOVA Solutions, Inc. has in-house representation and receives all correspondence from the U.S. Patent Office.

We are not presently engaged by the client with regard to any outstanding patent office matters, which requires a reply.

Respectfully submitted,

Daniel J. Hudak
Attorney for Applicant
Registration No. 25,879

Attorney Docket No. GC-FR-DIV (GT-5251)

PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/120,807
Filing Date	04/11/02
First Named Inventor	Weinert et al.
Art Unit	1711
Examiner Name	S. Berman
Attorney Docket Number	GC-FR-DIV (GT-5251)

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified patent application, and

- ☐ all the attorneys/agents of record.
- ☑ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☐ the attorneys/agents associated with Customer Number ☐

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Client will not be prejudice inasmuch as all correspondence is being handled internally by an in-house patent attorney who is either handling the matters himself or sing other law firms.

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					
Address					
Address					
City		State		Zip	
Country					
Telephone			Fax		

Name	Daniel J. Hudak		
Signature	/Daniel J. Hudak/	Registration No.	25,879
Date	FEB 20, 2004	Telephone No.	330-535-2220

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant:	Medsker, et al.	Examiner:	Zalukaeva
Serial No:	10/120,807	Group Art Unit:	1713
Filed:	April 11, 2002	Date:	February 20, 2004

For: CO-MINGLED POLYURETHANE-POLYVINYL ESTER POLYMER COMPOSITIONS AND A PROCESS FOR FORMING THE SAME

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATION OF FACSIMILE TRANSMISSION

(Facsimile: No. 1-703-872-9306 – Pages 3)

Sir:

The undersigned hereby certifies that the attached **REQUEST FOR WITHDRAWAL AS ATTORNEY (Form PTO/SB/83 and Attached List of Attorneys)** is being transmitted herewith via facsimile to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313, on **February 20, 2004.**

Respectfully submitted,

HUDAK, SHUNK & FARINE CO. LPA

Daniel J. Hudak

By: Daniel J. Hudak
Registration No. 25,879

DJH/lb

2020 Front Street, Suite 307
Cuyahoga Falls, OH 44221
Telephone: (330) 535-2220
Facsimile: (330) 535-1435

Attorney Docket No.: GC-FR-DIV (GT-5251)

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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Michael G. Fletcher
Fletcher, Yoder & Van Someren
P.O. Box 692289
Houston, TX 77269-2289

MAY 23 2007

In re Application of:
Stephenson et al.
Serial No.: 10/120,814
Filed: April 11, 2002
Title: Encapsulated Ball Grid Array Having Receiver Cups

DECISION TO ACCEPT
LATE REPLY

This is a decision on the petition filed March 13, 2006 under 37 CFR 1.181 for accepting the resubmission of the reply as timely filed.

The petition is DENIED.

A Notice of Non-Compliant Amendment set a one-month period of response from the mail date of November 8, 2005 to supply a signed copy of the reply filed September 20, 2005.

Petitioner asserts that the Notice of Non-Compliant Amendment has not been received and that a routine status check on all pending applications for Micron being prosecuted by the petitioner resulted in the Notice of Non-Compliant Amendment being discovered. Included with the petition is the following statement "There is no evidence in the brown rope file, at the mail intake or in the docketing system that the Notice was ever received by Applicants."

Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the Notice of Non-Compliant Amendment was not in fact received at the correspondence address of record at the time it was mailed. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been received had it been received and docketed must be attached to and referenced in the practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. §711.03(c),

Petitioner has provided the required statement attesting to the fact that a search of the brown rope file, the mail intake and docketing systems indicates that the Notice of Non-Compliant Amendment was not received. However, petitioner has not provided a copy of the file wrapper and the electronic docket record where the non-received Notice of Non-Compliant Amendment would have been entered had it been received and docketed.

For the above stated reasons, the petition to accept the response as a timely reply to the Office action is denied.

It is noted that the petition also included a complete reply to the Notice of Non-Compliant Amendment including a general authorization to charge fees for extensions of time. Pursuant to petitioner's authorization to charge fees that may be required relative to the response filed March 13, 2006, Deposit Account No. 13-3092 has been charged for four months of extendable time period to reply to the Notice of Non-Compliant Amendment Office action.

The application file is being forwarded to the Technical Support staff for processing the properly signed copy of the amendment. From there the application file will be forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Any inquiry regarding this decision should be directed to Quality Assurance Specialist Jose' G. Dees at (571) 272-1569.

Jose' G. Dees, Quality Assurance Specialist
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILLIAM LANDIN
4854 GLEETEN RD
CLEVELAND OH 44143

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OCT 18 2005

OFFICE OF PETITIONS

In re Application of	:	
William LANDIN	:	
Application No. 10/120,818	:	ON PETITION
Filed: April 12, 2002	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed September 9, 2004, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 10, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of September 9, 2004 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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 of 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 MPP 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 David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2162 for appropriate action on the concurrently filed election.

Brian Hearn
Petitions Examiner
Office of Petitions

Cc: Forrest L. Collins
P.O. Box 41040
Brecksville, OH 44141-0040

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

NAVAL MEDICAL RESEARCH CENTER
OFFICE OF COUNSEL (CODE 00L)
503 ROBERT GRANT AVENUE
SILVER SPRING, MD 20910-7500

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MAR 0 2 2004

OFFICE OF PETITIONS

In re Application of
Ching et al.
Application No. 10/120,837
Filed: April 12, 2002
Attorney Docket No. NC 83857

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 23, 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 April 22, 2003, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 23, 2003. A Notice of Abandonment was mailed on October 29, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 1600 for further examination on the merits.

Telephone inquiries should be directed to 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
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NAVAL MEDICAL RESEARCH CENTER
OFFICE OF COUNSEL (CODE 00L)
503 ROBERT GRANT AVENUE
SILVER SPRING, MD 20910-7500

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JUL 15 2005

OFFICE OF PETITIONS

In re Application of :
Ching et al. :
Application No. 10/120,837 : ON PETITION
Filed: April 12, 2002 :
Attorney Docket No. NC 83,857 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 23, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed September 17, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 18, 2004. A Notice of Abandonment was mailed April 1, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF COUNSEL (CODE 00L)
503 ROBERT GRANT AVENUE
SILVER SPRING, MD 20910-7500

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JUN 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Ching et al.	:	
Application No. 10/120,837	:	ON PETITION
Filed: April 12, 2002	:	
Attorney Docket No. 83857	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 3, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Response to the Office Action mailed July 28, 2005; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 1600 for 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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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 5

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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JAN 2 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Carrie Metz	:	
Application No. 10/120,842	:	DECISION REFUSING STATUS
Filed: April 12, 2002	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 053520-5010	:	

This is in response to the petition under 37 CFR 1.47(b), filed December 17, 2002.

The petition under 37 CFR 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on April 12, 2002, without an executed oath or declaration. Accordingly, on May 17 2002, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely the reply, petitioner purchased a five month extension of time. Accompanying the petition was: (1) a "Declaration in Support of Petition under 37 CFR 1.47(b)" by Christopher Kuhn, Vice President and General Counsel of purported assignee Verticalnet, Inc., and (2) a copy of a cover letter dated October 11, 2002, from Kuhn to sole inventor Metz, transmitting the declaration and assignment documents.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) a showing that such action is necessary to preserve the rights of the party or to prevent irreparable damage. The instant petition does not satisfy requirements (1),(2),(5) or (6).

As to requirement (1), there has been no showing that Metz was ever presented with the application papers (specification, claims, drawings, oath or declaration). Regarding this, the Manual of Patent Examining Procedure states:

> It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 U.S.P.Q. 80 Comm'r Pat. 1956).
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.[1]

Here, the letter of October 2, 2002 only indicates that Metz was presented with the declaration and assignment documents.

As to requirement (2), applicant has not submitted an oath or declaration in compliance with 37 CFR 1.63.

> Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).[2]

Here, the declaration fails to state the title or position of Christopher Kuhn, the person signing the declaration on behalf of the corporation.

As to requirement (5), applicant has not shown a sufficient proprietary interest. Applicant purports to be the assignee of the above-identified application. However, applicant has not submitted a copy of the assignment nor a statement under 37 CFR

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[1] MPEP 409.03(d).

[2] MPEP 409.03(b).

3.73(b) by the assignee.[3] If applicant can not show a sufficient proprietary interest by supplying a copy of the assignment (or a copy of an agreement to assign, e.g., an employment agreement), a proprietary interest "may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant."[4]

As to requirement (6), this requirement may be met by a statement that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage.[5]

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, Virginia

Telephone inquiries related to this decision may be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Cliff Congo
Petitions Attorney
Office of Petitions

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[3] See MPEP 409.03(f).

[4] Id.

[5] See MPEP 409.03(g).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 8

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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APR 0 4 2003

OFFICE OF PETITIONS

In re Application of :
Carrie Metz :
Application No. 10/120,842 : DECISION REFUSING STATUS
Filed: April 12, 2002 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 053520-5010 :

This is in response to the renewed petition under 37 CFR 1.47(b), filed March 28, 2003.

The renewed petition under 37 CFR 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on April 12, 2002, without an executed oath or declaration. Accordingly, on May 17 2002, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(b) on December 17, 2002, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely the reply, petitioner purchased a five month extension of time. Accompanying the petition was: (1) a "Declaration in Support of Petition under 37 CFR 1.47(b)" by Christopher Kuhn, Vice President and General Counsel of purported assignee Verticalnet, Inc., and (2) a copy of a cover letter dated October 11, 2002, from Kuhn to sole inventor Metz, transmitting the declaration and assignment documents.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) a showing that such action is necessary to preserve the rights of the party or to prevent irreparable damage.

The December 17, 2002 petition was dismissed in a decision mailed on January 29, 2003. Rule 47 applicant did not demonstrate that an entire copy of the application papers were sent to Metz for her review. In addition, while the declaration properly identified non-signing inventor Metz and listed her address and citizenship, the declaration did not state the title of the person signing the declaration on her behalf. Furthermore, Rule 47 applicant failed to establish a proprietary interest in the application. Lastly, Rule 47 applicant did not show that a filing date was necessary to preserve the rights of the party or to prevent irreparable damage.

On renewed petition, Rule 47 applicant submitted an affidavit by Christopher Kuhn, clarifying that an entire copy of the application papers were sent to Metz for her review. In addition, Kuhn included a statement that a filing date was necessary to preserve the rights or purported assignee Vert Tech, LLC. However, the renewed petition still has not satisfied requirements (2) or (5).

As to requirement (2), Rule 47 applicant has not submitted an oath or declaration in compliance with 37 CFR 1.63.

> Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).[1]

Here, the declaration executed by Christopher Kuhn does properly state his title. However, the declaration fails to state the full name, residence, post office address, and citizenship of nonsigning inventor Metz.

As to requirement (5), applicant has not shown a sufficient proprietary interest. Applicant purports to be the assignee of the above-identified application. However, applicant has not submitted a copy of the assignment nor a statement under 37 CFR

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[1] MPEP 409.03(b).

3.73(b) by the assignee.[2] If applicant can not show a sufficient proprietary interest by supplying a copy of the assignment (or a copy of an agreement to assign, e.g., an employment agreement), a proprietary interest "may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant."[3]

As there is no fee for a renewed petition, no fee has been charged to counsel's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail[4]: 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, Virginia

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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[2] See MPEP 409.03(f).

[3] Id.

[4] Effective May 1, 2003, the mailing address for the Office of Petitions will be changed to "Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450".

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. 10

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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AUG 1 2 2003

OFFICE OF PETITIONS

In re Application of :
Carrie Metz :
Application No. 10/120,842 : DECISION REFUSING STATUS
Filed: April 12, 2002 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 053520-5010 :

This is in response to the renewed petition under 37 CFR 1.47(b), filed July 21, 2003.

The renewed petition under 37 CFR 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on April 12, 2002, without an executed oath or declaration. Accordingly, on May 17 2002, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(b) on December 17, 2002, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely the reply, petitioner purchased a five month extension of time. Accompanying the petition was: (1) a "Declaration in Support of Petition under 37 CFR 1.47(b)" by Christopher Kuhn, Vice President and General Counsel of purported assignee Verticalnet, Inc., and (2) a copy of a cover letter dated October 11, 2002, from Kuhn to sole inventor Metz, transmitting the declaration and assignment documents.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) a showing that such action is necessary to preserve the rights of the party or to prevent irreparable damage.

The December 17, 2002 petition was dismissed in a decision mailed on January 29, 2003. Rule 47 applicant did not demonstrate that an entire copy of the application papers were sent to Metz for her review. In addition, while the declaration properly identified non-signing inventor Metz and listed her address and citizenship, the declaration did not state the title of the person signing the declaration on her behalf. Furthermore, Rule 47 applicant failed to establish a proprietary interest in the application. Lastly, Rule 47 applicant did not show that a filing date was necessary to preserve the rights of the party or to prevent irreparable damage.

On renewed petition filed March 28, 2003, Rule 47 applicant submitted an affidavit by Christopher Kuhn, clarifying that an entire copy of the application papers were sent to Metz for her review. In addition, Kuhn included a statement that a filing date was necessary to preserve the rights or purported assignee Vert Tech, LLC. However, the renewed petition still did not satisfy requirements (2) or (5). Accordingly, the petition was dismissed in a decision mailed on April 4, 2003.

Rule 47 applicant filed the instant renewed petition on July 21, 2003, made timely by obtaining a two month extension of time. With the petition, applicant submitted a memorandum of law establishing to the satisfaction of the Commissioner that a court of competent jurisdiction would award title of the invention to the 37 CFR 1.47(b) applicant.

However, Rule 47 applicant still has not submitted an oath or declaration in compliance with 37 CFR 1.63.

> Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).[1]

The declaration submitted on December 17, 2002 was not acceptable because the declaration failed to state the title or position of Christopher Kuhn, the individual who signed the declaration on behalf of the Rule 47 applicant. The declaration submitted on

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[1] MPEP 409.03(b).

March 28, 2003 did properly state the title of Kuhn. However, the declaration was not acceptable because it failed to identify Metz as the inventor. In addition, it failed to state her residence, post office address, and citizenship.

On renewed petition, Rule 47 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: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, Virginia

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

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

CARRIE METZ
858 FILBERT STREET #4
SAN FRANCISCO CA 94133

COPY MAILED

SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of
Carrie Metz
Application No. 10/120,842
Filed: April 12, 2002
Title: METHOD AND SYSTEM FOR BUILDING DIGITAL MARKETS

LETTER

Dear Ms. Metz:

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

Arlene P. Neal
Morgan, Lewis & Bockius
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202-739-3000

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 12

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Carrie Metz :
Application No. 10/120,842 : DECISION ACCORDING STATUS
Filed: April 12, 2002 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 053520-5010 :

This is in response to the renewed petition under 37 CFR 1.47(b), filed September 8, 2003.

The renewed petition under 37 CFR 1.47(b) is **GRANTED**.

The above-identified application was filed on April 12, 2002, without an executed oath or declaration. Accordingly, on May 17 2002, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(b) on December 17, 2002, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely the reply, petitioner purchased a five month extension of time. Accompanying the petition was: (1) a "Declaration in Support of Petition under 37 CFR 1.47(b)" by Christopher Kuhn, Vice President and General Counsel of purported assignee Verticalnet, Inc., and (2) a copy of a cover letter dated October 11, 2002, from Kuhn to sole inventor Metz, transmitting the declaration and assignment documents.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary

application; and (6) a showing that such action is necessary to preserve the rights of the party or to prevent irreparable damage.

The December 17, 2002 petition was dismissed in a decision mailed on January 29, 2003. Rule 47 applicant did not demonstrate that an entire copy of the application papers were sent to Metz for her review. In addition, while the declaration properly identified non-signing inventor Metz and listed her address and citizenship, the declaration did not state the title of the person signing the declaration on her behalf. Furthermore, Rule 47 applicant failed to establish a proprietary interest in the application. Lastly, Rule 47 applicant did not show that a filing date was necessary to preserve the rights of the party or to prevent irreparable damage.

On renewed petition filed March 28, 2003, Rule 47 applicant submitted an affidavit by Christopher Kuhn, clarifying that an entire copy of the application papers were sent to Metz for her review. In addition, Kuhn included a statement that a filing date was necessary to preserve the rights or purported assignee Vert Tech, LLC. However, the renewed petition still did not satisfy requirements (2) or (5). Accordingly, the petition was dismissed in a decision mailed on April 4, 2003.

Rule 47 applicant filed the instant renewed petition on July 21, 2003, made timely by obtaining a two month extension of time. With the petition, applicant submitted a memorandum of law establishing to the satisfaction of the Commissioner that a court of competent jurisdiction would award title of the invention to the 37 CFR 1.47(b) applicant. However, the 37 CFR 1.47(b) petition was dismissed in a decision mailed on August 12, 2003. The petition was dismissed because applicant did not submit a declaration in compliance with 37 CFR 1.63.

On renewed petition, Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63. The declaration was executed by Christopher Kuhn, on behalf of Carrie Metz. In addition, the declaration properly identified Kuhn's title as Vice President and General Counsel of assignee Verticalnet, Inc., as well as properly identified the inventor information (residence, citizenship, and address) for Metz.

Accordingly, the application is hereby **accorded Rule 1.47(b) status**.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the 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 the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

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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2475 HANOVER STREET
PALO ALTO, CA 94304-1114

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MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of
Albert Wang et al
Application No. 10/120,849
Filed: April 10, 2002
Attorney Docket No. 083818-0293242TEN-018

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 21, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on March 25, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,726,183	2004-04-27	10/120,871	2002-04-12	GWLY-28247US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◯	3 ½ year	(1551)	◉	3 ½ year	(2551)
◯	7 ½ year	(1552)	◯	7 ½ year	(2552)
◯	11 ½ year	(1553)	◯	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◯ A joint patentee; all of whom are signing this e-petition

◯ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark Handley/	Date (YYYY-MM-DD)	2009-08-05
Name	Mark W Handley	Registration Number	36821

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
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In re Patent No. 6726183
Issue Date: April 27,2004
Application No. 10120871
Filed: April 12,2002
Attorney Docket No. WIL102

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 5,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 5,2009 . 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060313

DATE : March 12, 2006

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction on Patent No.: 6968851

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:

Eric Keasel

SPE: Eric Keasel **Art Unit** 3753

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.

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO CA 92130

COPY MAILED

APR 0 3 2006

OFFICE OF PETITIONS

In re Application of	
CHALLITA-EID et al.	
Application No. 10/120,901	DECISION ON APPLICATION
Filed: April 9, 2002	FOR
Atty Docket No. 511582006700	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705," filed December 16, 2005. Applicants request that the patent term adjustment indicated in the Notice of Allowance be corrected from two hundred thirty-two (232) days to at least four hundred four (404) days depending on the issuance of the patent.

The request for reconsideration of the patent term adjustment is **DISMISSED**.

On September 19, 2005, the Office mailed the Notice of Allowance with a Patent Term Adjustment of 232 days. On December 16, 2005, applicants timely[1] filed the instant application for patent term adjustment. Applicants request that the 172-day reduction be corrected to 0 days as applicants' supplemental information disclosure statement, filed on April 5, 2005, less than one month before the mailing date of the first Office action on the merits, did not require a supplemental Office action or notice of allowance according to 37 CFR § 1.704(c)(6). Applicants also point out that pursuant to 37 CFR § 1.702(b), the Office has failed to issue a patent within three years of the actual filing date of the application.

Applicants disclose that this application is subject to a terminal disclaimer.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being held in abeyance until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

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[1] PALM records indicate that the Issue Fee payment was also received on December 16, 2005.

Applicants are given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants' argument is incorrect. 37 C.F.R. § 1.704(c) provides, in pertinent part, 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:

> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

A review of the application record confirms that a Restriction Requirement was mailed to the applicants on September 13, 2004. This constitutes an Office action or notice under 37 CFR § 1.704. Applicants timely filed a Response to Restriction Requirement on October 15, 2004. A Supplemental Information Disclosure Statement was filed April 5, 2005, or 172 days after the initial reply had been filed. The Supplemental IDS constitutes a supplemental reply under 37 CFR § 1.704(c)(8) and results in a reduction of PTA.

Furthermore, the grant of the two-month extension of time is insignificant for determination of PTA. Chapter 2700 of the MPEP explains that the three-month period in 35 U.S.C. 154(b)(2)(C)(ii) and 37 CFR 1.704(b) applies regardless of the period for reply set in the Office action or notice. For example, if an Office action sets a one-month period for reply, the applicant may obtain a two-month extension of time under 37

CFR 1.136(a) before being subject to a reduction of patent term adjustment under 35 U.S.C. 154(b)(2)(C)(ii) and 37 CFR 1.704(b). If, however, an Office action sets a six-month period for reply the applicant is subject to a reduction of patent term adjustment under 35 U.S.C. 154(b)(2)(C)(ii) and 37 CFR 1.704(b) if the applicant does not reply to the Office action within three months, notwithstanding that a reply may be timely filed six months after the mailing date of the Office action. The same applies for extensions of time granted over the three-month period. Therefore, applicants should have responded to the Notice to File Missing Parts of Non-provisional Application by August 10, 2002 to avoid a reduction in PTA. Since the response was filed on September 10, 2002, a 31 day reduction is necessary pursuant to § 1.704(b).

In view thereof, the patent term adjustment at the time of the mailing of the Notice of Allowance is correctly indicated as TWO HUNDRED THIRTY-TWO (232) days.

Please be advised that under § 1.705(d), the patent term adjustment indicated on the patent will include any additional patent term accrued for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, as well as, any additional patent term accrued for the Office taking in excess of three years to issue the patent to the extent that these periods do not overlap.

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) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petition

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.

AGENSYS C/O MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Challita-Ed et al.	:	DECISION ON
Application No. 10/120,901	:	REQUEST FOR RECONSIDERATION
Filed: April 9, 2002	:	OF
Atty Docket No. 511582006700	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)," filed January 16, 2007. Patentees request that the determination of patent term adjustment indicated on the patent be corrected from one hundred eighty-six (186) days to three hundred thirty-four (334) days.

The request for correction of the determination of patent term adjustment (PTA) is **GRANTED to the extent indicated herein**.

On November 14, 2006, the application matured into U.S. Patent No. 7,135,549, with a revised patent term adjustment of 186 days. On January 16, 2007, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 334 days. Patentees dispute the reduction of 33 days associated with the amendment filed December 16, 2005 and the reduction of 120 days associated with the declaration filed May 5, 2006. Patentees maintain that the 33 day reduction is not warranted as the amendment was necessitated by the examiner's amendment. Patentees maintain that that 120 day reduction is not warranted

37 CFR 1.704(c) provides, in pertinent part, 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:

> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months; …

With respect to the amendment under § 1.312, patentees' argument has been considered but not found persuasive. As stated in the *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), and in MPEP 2701, an amendment under 37 CFR 1.312 is a paper that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application. Entry of the period of reduction of 33 days is warranted and will not be removed.

With respect to the declaration, patentees' contention is well-taken. The evidence supports a conclusion that the originally submitted declaration was lost in part by the Office. Under the circumstances of the resubmission, it is appropriate to treat the declaration as submitted on September 10, 2002, prior to the mailing of the Notice of Allowance on September 19, 2005. Further, the record supports a conclusion that the declaration as received on September 10, 2002 was complete and proper. Under the circumstances, the resubmission of the declaration pages on May 5, 2006 did not constitute a failure to engage within the meaning of 37 CFR 1.704(c)(10). Accordingly, the period of reduction of 120 days is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of three hundred thirty-four (334) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by THREE HUNDRED THIRTY-FOUR (334) 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 : 7,135,549 B1

DATED : **November 14, 2006** **DRAFT**

INVENTOR(S) : Challita-Eid 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 186 days

Delete the phrase "by 186 days" and insert – by 334 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

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12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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OFFICE OF PETITIONS

In re Patent No. 7,135,549	:	**CORRECTED**
Challita-Ed et al.	:	DECISION ON
Issue Date: November 14, 2006	:	REQUEST FOR RECONSIDERATION
Application No. 10/120,901	:	OF
Filed: April 9, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 511582006700	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)," filed January 16, 2007. Patentees request that the determination of patent term adjustment indicated on the patent be corrected from one hundred eighty-six (186) days to three hundred thirty-four (334) days.

The request for correction of the determination of patent term adjustment (PTA) is **GRANTED to the extent indicated herein**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred six **(306)** 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 November 14, 2006, the application matured into U.S. Patent No. 7,135,549, with a revised patent term adjustment of 186 days. On January 16, 2007, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 334 days. Patentees dispute the reduction of 33 days associated with the amendment filed

December 16, 2005 and the reduction of 120 days associated with the declaration filed May 5, 2006. Patentees maintain that the 33 day reduction is not warranted as the amendment was necessitated by the examiner's amendment. Patentees also maintain that the 120 day reduction is not warranted as the submission is for a copy of the originally filed declaration expressly requested by the Examiner after the mailing of the notice of allowance.

37 CFR 1.704(c) provides, in pertinent part, 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:

> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months; …

With respect to the amendment under § 1.312, patentees' argument has been considered but not found persuasive. As stated in the *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), and in MPEP 2701, an amendment under 37 CFR 1.312 is a paper that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application. Entry of the period of reduction of 33 days is warranted and will not be removed.

With respect to the declaration, patentees' contention is well-taken. The evidence supports a conclusion that the originally submitted declaration was lost in part by the Office. Under the

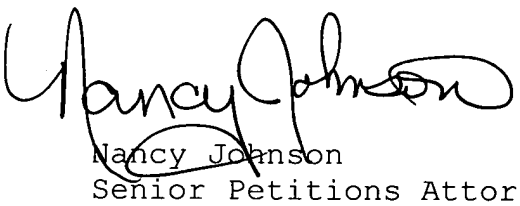
circumstances of the resubmission, it is appropriate to treat the declaration as submitted on September 10, 2002, prior to the mailing of the Notice of Allowance on September 19, 2005. Further, the record supports a conclusion that the declaration as received on September 10, 2002 was complete and proper. Under the circumstances, the resubmission of the declaration pages on May 5, 2006 did not constitute a failure to engage within the meaning of 37 CFR 1.704(c)(10). Accordingly, the period of reduction of 120 days is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of three hundred six (306) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **THREE HUNDRED SIX (306)** 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 : 7,135,549 B1

DATED : **November 14, 2006** **DRAFT**

INVENTOR(S) : Challita-Eid 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 334 days

Delete the phrase "by 334 days" and insert – by 306 days--

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OFFICE OF PETITIONS

In re Patent No. 6,826,569 :
Issue Date: November 30, 2004 :
Application No.: 10/120,902 : NOTICE
Filed: April 9, 2002 :
Attorney Docket No.: 14062-002001/42585US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed February 28, 2005.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. The change of status to a large entity has been entered and made of record.

This file is being forwarded to the Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 27 2006

OFFICE OF PETITIONS

Precision Photonics Corporation
2901 55th Street
Boulder, CO 80301

In re Application of :
Myatt, et al. : DECISION ON PETITION
Application No. 10/120,903 :
Filed: April 10, 2002 :
For: MULTIPLE-INTERFEROMETER :
DEVICE FOR WAVELENGTH MEASURING :
AND LOCKING :

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 2006, to revive the above-identified application.

The petition is **DISMISSED WITHOUT PREJUDICE**.

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.

In accordance with 37 CFR 1.33(b), amendments and other papers, including the instant petition, filed in an application must be signed by: (1) a registered patent attorney or patent agent of record appointed in compliance with § 1.32(b); (2) a registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34; (3) an assignee as provided for under 37 CFR 3.71(b); or (4) all of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71.

A registered attorney, a patent agent, or all of the applicants has not signed the instant petition. The instant petition also fails to comply with the requirements of 37 CFR 3.71. Accordingly, treatment on the merits of the instant petition cannot be undertaken at the present time.

Any renewed petition must be signed by a registered attorney or patent agent, all of the applicants, or must comply with the requirements of 37 CFR 3.71 and 3.73(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand delivery:	U.S. Patent and Trademark Office Customer Window, **Mail Stop Petition** Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

Precision Photonics Corporation
2901 55th Street
Boulder, CO 80301

In re Application of :
Myatt, et al. : DECISION ON PETITION
Application No. 10/120,903 :
Filed: April 10, 2002 :
For: MULTIPLE-INTERFEROMETER :
DEVICE FOR WAVELENGTH MEASURING :
AND LOCKING :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 26, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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 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).

Submission of a properly executed petition as well as the required petition fee are prerequisites prior to treatment on the merits of a petition under 37 CFR 1.137(b).

The instant petition lacks the required petition fee and is not properly executed. Accordingly, the petition is subject to dismissal.

In accordance with 37 CFR 1.33(b), amendments and other papers, including the instant petition, filed in an application must be signed by: (1) a registered patent attorney or patent agent of record appointed in compliance with § 1.32(b); (2) a registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34; (3) an assignee as provided for under 37 CFR 3.71(b); or (4) all of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71.

The statement under 37 CFR 3.73(b) submitted October 21, 2004 is executed by Sally Hatcher who states that she is the president of the assignee company and that she is authorized to act on behalf of the assignee.

The instant petition is signed by Christopher Myatt who states that is the CEO of the assignee company. However, there is no indication in the record that Christopher Myatt is authorized by act on behalf of the assignee company. Accordingly, the petition is subject to dismissal.

Any renewed petition must be signed by a registered attorney or patent agent, all of the applicants, or must comply with the requirements of 37 CFR 3.71 and 3.73(b). See enclosed. Further, any renewed petition must be accompanied by the required petition fee, currently $750.00.

An examination of this application reveals that applicant is unfamiliar with patent petition procedures. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site http://www.uspto.gov in the Site Index under "Attorney and Agent Roster". Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand delivery:	U.S. Patent and Trademark Office Customer Window, **Mail Stop Petition** Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure

PTO/SB/96 (12-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No./Control No.: _____ Filed/Issue Date: _____

Entitled: _____

_____, a _____
(Name of Assignee) (Type of Assignee: corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or a true copy of the original assignment is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____
Signature Date

_____ _____
Printed or Typed Name Telephone Number

_____
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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www.uspto.gov

Precision Photonics Corporation
2901 55th Street
Boulder CO 80301

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JAN 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Myatt, et al. : DECISION GRANTING PETITION
Application No. 10/120,903 : UNDER 37 CFR 1.137(b)
Filed: April 10, 2002 :
Atty. Dkt. No.: 50043-00013 :

This decision is in response to the renewed petition under 37 CFR 1.137(b), filed October 2, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a proper reply to the Office action mailed September 10, 2004. The Notice set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed January 30, 2006. A petition under 37 CFR 1.137(b) was filed March 17, 2006 and dismissed April 27, 2006. A renewed petition under 37 CFR 1.137(b) was filed June 26, 2006 and dismissed July 28, 2006.

A grantable petition under 37 CFR 1.137(b) requires submission of: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 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 Notice is accepted as having been unintentionally delayed.

This application is being forwarded to the Technology Center 2800 for further processing.

The requested change of correspondence address/power of attorney submitted herewith has not been entered into the record as there is no indication in the record that the individual executed the request has been empowered by assignee to do so.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: DON CHA
FAEGRE AND BENSON, LLP
1700 LINCOLN ST
3200 WELLS FARGO CENTER
DENVER, CO 80203

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Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of	:	
William Budge	:	
Application No. 10/120,904	:	DECISION ON PETITION
Filed: April 10, 2002	:	TO WITHDRAW
Attorney Docket No. 18922P-008100	:	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 1, 2006.

The request is not **APPROVED** as moot.

A review of the file record discloses that, on March 17, 2006, the Office mailed out a Notice of Acceptance of Power of Attorney to the firm of Stearn [sic, Sterne] Kessler Goldstein & Fox (Sterne et al) and a Notice Regarding Change of Power of Attorney approving the withdrawal of attorney to the firm of Townsend and Townsend and Crew [Townsend et al]. The request to withdraw as attorney was signed by Babak Kusha on behalf of all the attorneys of record who are associated with customer No. 20350. The file record further discloses that Babak Kusha is associated with the aforementioned customer number. Accordingly, in view of the acceptance by the Office of the withdrawal of the attorney to the firm of Townsend et al on March 17, 2006, the request is moot.

However, the mailing on March 17, 2006 of a Notice of Acceptance of Power of Attorney to the firm of Sterne et al was improper, since there is no indication that a power of attorney for this firm was received on the stated date of February 1, 2006. Accordingly, the Notice of Acceptance of Power of Attorney to Sterne et al is vacated. In view thereof, the request to change the correspondence of record by the firm of Townsend et al is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest. While the record indicates that the previous assignee of record [The 3DO Company] had intervened, there is no like indication that the current assignee of record [Patent Purchase Manager, L.L.C.] has intervened. **Therefore, all future communications from the Office will be directed to the sole inventor herein at the first copied address below.** If the firm of Sterne et al wishes to receive future correspondence regarding this application, the proper power of attorney documents must be promptly submitted. If the power of attorney is from an assignee, compliance with 37 CFR 3.73(b) must be satisfied. A copy of this decision is being mailed to Patent Purchase Manager, L.L.C., and to the correspondence address for Sterne et al noted in the withdrawal of attorney request of February 1, 2006.

A Notice of Appeal was filed in this application on February 21, 2006. Accordingly, the proper reply following the filing of the Notice of Appeal must be submitted within the period provided by 37 CFR 41.37(a). This period is extendable under the provisions of 37 CFR 1.136(a).

In reply to the communication of April 10, 2006, a three month extension of time in the amount of $990 ($450 on February 17, 2006 and $540 on February 21, 2006) has been assessed to the deposit account of Sterne et al. However, it appears that the charging of a three month extension of time was improper since the Notice of Appeal was filed in the fifth month (February 20, 2006, the due date, was a holiday). Accordingly, the $540 overcharge will be credited to the deposit account of Sterne et al.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

William Budge
428 Pala Avenue
Piedmont, CA 94611

Patent Purchase Manager, L.L.C.
171 Main Street, #271
Los Altos, CA 94022

Sterne Kessler Goldstein & Fox PLLC
1100 New York Avenue NW
Washington, DC 20005-3934

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

APR 20 2004

In re Application of:
WOBBEN, ALOYS
Application No. 10/120,932
Filed: April 10, 2002
For: APPARATUS AND METHOD TO CONVERT MARINE CURRENT INTO ELECTRICAL POWER

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed July 07, 2003, to make the above-identified application special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), § 708.02, Section VI: Energy. A petition fee is not required.

The petition is **granted.**

A grantable petition under 37 C.F.R. § 1.102(c), and in accordance with M.P.E.P. § 708.02, Item VI, for inventions which materially contribute to (A) the discovery or development of energy resources or (B) the more efficient utilization and conservation of energy resources, must be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above.

Petitioner asserts that the present invention is related to a water powered installation that generates electricity. The generation of power form ocean current requires no coal, petroleum, wood, or other consumable resources and therefore maintains and preserves the living environment.

For the above stated reasons, the petition and accompanying declaration are adequate to qualify the application for special status under 37 CFR 1.102(c) and pursuant to M.P.E.P. § 708.02, Section VI.

An office action was mailed on February 19, 2004[1]. The application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Inquires regarding this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

1 The shortened statutory period for response continues to run three months from the date the Office action was mailed.

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. 8

KYOCERA WIRELESS CORP.
ATTN: PATENT DEPARTMENT
P.O. BOX 928289
SAN DIEGO, CA 92192-8289

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OFFICE OF PETITIONS

In re Application of
Toncich et al.
Application No. 10/120,938
Filed: April 10, 2002
Attorney Docket No. UTL 00097

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 16, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on April 10, 2002 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Paralegal Liana Chase at (571) 272-3282.

This application is being forwarded to Technology Center Art Unit 2685 for appropriate action on the amendment submitted September 16, 2004, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of :
John G. McDonough et al :
Application No. 10/120,954 : ON PETITION
Filed: April 11, 2002 :
Attorney Docket No. TI-31685 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 31, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 1, 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 2616 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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WASHINGTON, DC 20231
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Paper No. 4

PAUL ADAMS
PEACOCK MYERS AND ADAMS P C
P O BOX 26927
ALBUQUERQUE NM 87125-6927

MAILED

OCT 0 1 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
KAPLAN et al. :
Application No. 10/120,956 :
Filed: April 11, 2002 :
For: SYSTEM AND METHOD FOR MOBILE CONFIGURATION :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney or Agent of record filed on July 17, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

The attorneys/agents listed are granted the request for withdraw.

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.

Kriesta Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc:
David Huffaker Esq.
Kyocera Wireless Corporation
10300 Campus Point Drive
San Diego, California 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

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RICHARD M. SHARKANSKY
PO BOX 557
MASHPEE MA 02649

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JAN 25 2008

OFFICE OF PETITIONS

In re Patent No. 6,957,285
Issue Date: October 18, 2005
Application No. 10/120,957
Filed: April 11, 2002
Attorney Docket No. EMC2-078BUS

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **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) 272-3215.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

IBM Corporation
Intellectual Property Law Dept. 917
3605 Hwy. 52 North
Rochester MN 55901

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JUL 23 2002

OFFICE OF PETITIONS

In re Application of
Toussi
Application No. 10/120,991
Filed: April 11, 2002
Attorney Docket No. ROC920010351US1
FOR: ELIMINATING UNNECESSARY DATA PRE-FETCHES IN A MULTO-PROCESSOR COMPUTER SYSTEM

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed June 17, 2002 (certificate of mailing date June 12, 2002), requesting that the above-identified application be accorded a filing date of April 11, 2002, instead of the presently accorded date of April 12, 2002.

Petitioner alleges that the application was deposited in "Express Mail" service with the U. S. Postal Service (USPS), on April 11, 2002. Petitioner provided a copy of the Patent Application Transmittal letter citing Express Mail Label No. EU06312097US with a date of deposit of April 11, 2002 and a post office receipt dated April 11, 2002.

Petitioner has not provided the actual Express Mail mailing label showing a "date-in" of April 11, 2002. However, an independent search of the USPS Shipping Center Track and Confirm database reveals that a package associated with Express Mail Label no. EU06312097US was accepted by the USPS on April 11, 2002. A review of the PTO's USPS Express Mail Information Database confirms the April 11, 2002 date of deposit. In addition, the post office receipt, dated April 11, 2002, submitted by petitioner lists the Express Mail number in question.

In view of the above, the Commissioner is convinced that the application was deposited as "Express Mail" with the US Postal Service on April 11, 2002.

The petition is granted. As this is a feeless petition, no petition fee has been or will be charged.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of **April 11, 2002.**

Telephone inquiries concerning this matter should be directed to the undersigned at (703)308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
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OFFICE OF PETITIONS

In re Patent No. 6,949,642 :
Issued: September 27, 2005 :
Application No. 10/121,014 : DECISION REGARDING PTA
Filed: April 11, 2002 :
Atty. Dkt. No.: LD0201(NP) :

This decision is in response to the "PETITION TO CORRECT PATENT TERM ADJUSTMENT PERIOD IN GRANTED PATENT UNDER 37 C.F.R. §1.181," filed October 17, 2005. This matter is being properly treated under 37 CFR 1.705(d) as a timely filed application for patent term adjustment. The required application fee of $200.00 has been charged to Deposit Account No. 19-3880 as authorized.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application matured into U.S. Patent No. 6,949,642 on September 27, 2005. The instant request for reconsideration was timely filed October 17, 2005 in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 208 days. Applicants argue that the adjustment of 208 days is in error in that there was an Office delay of 495 days and that there was an applicant delay of 47 days, yielding an overall adjustment of 448 days.

A review of the application history reveals that an adjustment of 494 days can be attributed can be attributed to the Office. In accordance with 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1), an adjustment of 372 days can be attributed to the Office for failure to mail at least one notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. In accordance with 37 C.F.R. § 1.702(a)(4) and 1.703(a)(6), an adjustment of 122 days can be attributed to the Office for failure to issue the patent within four months of the date of receipt of issue fee payment.

The adjustment of 494 days is properly reduced a total of 139 days for applicants' failure to engage in reasonable efforts to conclude prosecution (or processing).

In accordance with 37 CFR 1.704(b), the adjustment of 495 days is reduced 19 days in connection with the response submitted October 6, 2004. The reduction began September 18, 2004, the day after the date that is three months after the date the non-final Office action was mailed, and ended October 6, 2004, the date the response was submitted.

In accordance with 37 CFR 1.704(c)(10)(ii), the reduction of 495 days is further reduced 120 days in connection with the supplemental declaration submitted November 4, 2004. *See* MPEP 2732 and *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).

In view thereof, at the time of issuance, the patent was entitled to an adjustment of 355 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 355 days.

Applicants are given 30 days to file a request for reconsideration of the instant decision. No additional time will be granted under 37 CFR 1.136.

As noted herein, the required $200.00 application fee has been charged to applicants' deposit account.

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

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,949,642 B2
DATED	:	September 27, 2005
INVENTOR(S)	:	Gao, 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 208 days

Delete the phrase "by 208 days" and insert – by 355 days--

Day : Wednesday

PALM INTRANET

Date: 5/10/2006
Time: 12:02:51

PTA Calculations for Application: 10/121014			
Application Filing Date:	04/11/2002	PTO Delay (PTO):	410
Issue Date of Patent:	09/27/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	202
Post-Issue Petitions:	0	Total PTA (days):	355
PTO Delay Adjustment:	147		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
50	05/10/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	147		
46.5	09/07/2005	PTA 36 MONTHS			
46	09/27/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	38		43
45	09/02/2005	RECEIPT INTO PUBS			
44	09/02/2005	DISPATCH TO FDC			
43	04/20/2005	ISSUE FEE PAYMENT VERIFIED			
42	09/01/2005	RECEIPT INTO PUBS			
41	04/29/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
40	04/20/2005	ISSUE FEE PAYMENT VERIFIED		82	28
39	01/28/2005	ISSUE FEE PAYMENT RECEIVED			
38	04/28/2005	PETITION TO REVIVE APPLICATION - GRANTED			
37	04/20/2005	PETITION ENTERED			
36	04/28/2005	WITHDRAW PUBLICATION/PRE-EXAM ABANDON			
35	04/06/2005	MAIL ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
34	04/06/2005	ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
33	04/05/2005	RECEIPT INTO PUBS			
32	11/04/2004	SUPPLEMENTAL PAPERS - OATH OR DECLARATION		120	
31	11/05/2004	EXPORT TO INITIAL DATA CAPTURE			
30	11/11/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
28	10/28/2004	MAIL NOTICE OF ALLOWANCE			
27	10/28/2004	MAIL EXAMINER'S AMENDMENT			

26	10/27/2004	ISSUE REVISION COMPLETED			
25	10/27/2004	EXAMINER'S AMENDMENT COMMUNICATION			
24	10/27/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
23	10/27/2004	CASE DOCKETED TO EXAMINER IN GAU			
22	10/27/2004	NOTICE OF ALLOWABILITY			
21	10/06/2004	WORKFLOW INCOMING AMENDMENT IFW			
20	06/17/2004	MAIL NON-FINAL REJECTION	372		-1
19	06/14/2004	NON-FINAL REJECTION			
18	05/11/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	11/20/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	06/25/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	06/05/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	12/02/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	10/23/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	09/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
10	07/29/2002	APPLICATION DISPATCHED FROM OIPE			
9	07/26/2002	APPLICATION IS NOW COMPLETE			
8	06/12/2002	ADDITIONAL APPLICATION FILING FEES			
7	06/12/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	05/22/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	04/25/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
3	04/24/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	04/23/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/11/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 5

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

COPY MAILED

SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of
Mane
Application No.: 10/121,015
Filed: April 11, 2002
Attorney Docket No. 42P14013
For: MANAGING MULTICAST SESSIONS

: DECISION DISMISSING
: PETITION

This is a decision in response to the letter, received July 17, 2002, requesting that the above-identified application be accorded a filing date of April 10, 2002, instead of the presently accorded date of April 11, 2002. The letter is the functional equivalent of a petition under 37 CFR 1.10(c).

Official records indicate that the filing date of the above-identified application is April 11, 2002. In order to change the filing date, a petition must be filed. The letter, received July 17, 2002, is not signed by a party who is registered to practice before the U.S. Patent and Trademark Office. Therefore the Office cannot address the petition/request on its merits. 37 CFR 1.33(b).

Accordingly, it is **dismissed**.

Petitioners must file a petition under 37 CFR 1.10(c), signed by a registered practitioner.

The application will remain in the Office of Petitions until a petition under 37 CFR 1.10(c), signed by a registered practitioner is received.

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: 4 Crystal Plaza
2201 South Clark Place
Suite 3C23 - Office of Petitions
Arlington, VA 22202-3113

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

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OCT 0 7 2002

OFFICE OF PETITIONS

In re Application of
Mane
Application No.: 10/121,015
Filed: April 10, 2002
Attorney Docket No. 42P14013
For: MANAGING MULTICAST SESSIONS

DECISION GRANTING PETITION

This is a decision on the reconsideration petition under 37 CFR 1.10(c)," filed September 24, 2002 (certificate of mailing date September 18, 2002), requesting that the above-identified application be accorded a filing date of April 10, 2002, instead of the presently accorded date of April 11, 2002

Petitioner alleges that the application was deposited in "Express Mail" service with the U. S. Postal Service, on April 10, 2002. In support, petitioners provided a copy of the Express Mail label, receipt no. EL546137729US, showing a Date-In of April 10, 2002. The same Express Mail receipt number was referred to in the original Application Transmittal Letter submitted with the original filing. Petitioner requests that the application be accorded a filing date of April 10, 2002.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on April 10, 2002.

In view of the above, the petition is **GRANTED**. As this is a feeless petition, no petition fee has been or will be charged.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of April 10, 2002.

Telephone inquiries concerning this matter should be directed to the undersigned at (703)308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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AGENSYS C/O MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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APR 28 2010

OFFICE OF PETITIONS

In re Application of :
JAKOBOVITS et al. :
Application No. 10/121,024 : DECISION ON APPLICATION
Filed: April 10, 2002 : FOR
Atty Docket No. 511582004000 : PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705," filed December 2, 2009, which is properly treated as a petition under 37 CFR 1.705(b). Applicants request correction of the patent term adjustment from zero (0) days to three hundred forty-two (342) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PAIR and PALM screens to reflect that the corrected Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero (0) days (1017 days of Office delay - 1046 days of applicant delay). A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On September 2, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is zero (0) days. Applicants timely filed the instant application for patent term adjustment[1].

[1] PALM Records indicate that the Issue Fee payment was received on December 2, 2009.

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In the present application for patent term adjustment, applicants assert that they are entitled to a total patent term adjustment of 342 days based on 800 days of PTO delay and 458 days of applicant delay. Specifically, applicants argue:

> The Office failed to mail a notification under 35 USC 132 or a notice of allowance under 35 USC 151 within 14 months of the filing date of the present application. . . . The Office incorrectly bases adjustment on September 16, 2003, when the application is listed as "now complete", rather than the date the application was filed (April 10, 2002). The Office then incorrectly ends the period of adjustment on December 1, 2004, when the Office mailed a communication regarding sequence identification numbers and a notice to comply with requirements for patent applications containing nucleotide sequence and/or amino acid sequences, rather than the date of the Office's first action (Restriction Requirement, mailed August 18, 2005). Thus, the filing date of April 10, 2002 and the Office's first action, mailed August 18, 2005, results in 800 days of Office delay.
>
> Applicants filed a response on September 25, 2002 to the notice to file missing parts of non-provisional application, mailed May 31, 2002. Applicants calculate 25 days of applicants' delay in accordance with 35 USC 154(b)(2)(C)(ii) and 37 CFR 1.704(b).
>
> Applicants filed a response on February 21, 2003 to the notice to comply with requirements for sequence disclosures, mailed October 24, 2002. Applicants calculate 28 days of applicants' delay in accordance with 35 USC 154(b)(2)(C)(ii) and 37 CFR 1.704(b).
>
> Applicants filed a response on July 14, 2003 to the notice to comply with requirements for sequence disclosures, mailed March 14, 2003. Applicants calculate 30 days of applicants' delay in accordance with 35 USC 154(b)(2)(C)(ii) and 37 CFR 1.704(b).
>
> The Office incorrectly calculates 317 days of applicants' delay based on applicants' July 14, 2003 response to the notice to comply with requirements for

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sequence disclosures. The Office incorrectly uses the response period from the original May 31, 2002 notice to file missing parts rather than the restarted response periods set forth in the subsequent notices to comply, mailed October 24, 2002 and July 14, 2003 and thus, incorrectly calculates 317 days of applicants' delay. Applicants' responses, filed September 25, 2002, February 21, 2003 and July 14, 2003 result in 25, 28 and 30 days of delay, respectively, for a total applicant delay for these three responses of 83 days.

Applicants filed a response on June 1, 2005 to the communication regarding sequence compliance, mailed December 1, 2004. The Office correctly calculates 92 days of applicants' delay in accordance with 35 USC 154(b)(2)(C)(ii) and 37 CFR 1.704(b).

. . .

Applicants filed a Supplemental Information Disclosure Statement on September 9, 2009 after the mailing of a notice of allowance on September 2, 2009. Based on a projected issue date of March 16, 2010, applicants calculate 120 days of applicants' delay in accordance with 37 CFR 1.704(c)(10).

Petition, 12/02/09, pp. 2-4.

A review of the record supports applicants' assertion that a period of adjustment of 800 days (not 540 days) should be entered for Office delay pursuant to 37 CFR 1.702(a)(1). Applicant filed the above-identified application on April 10, 2002; however, the Office did not mail a Restriction Requirement until August 18, 2005, 14 months and 800 days later. Therefore, the period of adjustment of 540 days will be removed and a period of adjustment of 800 days will be entered. See 37 CFR 1.702(a)(1) and 1.703(a)(1).

Further, the Office did not respond to applicants' reply to the Restriction Requirement, filed September 19, 2005, until the mailing of the non-final Office action, four months and 217 days later. Thus, a period of adjustment of 217 days will be entered pursuant to 37 CFR 1.702(a)(2).

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The Office concurs with applicants that the single period of applicant delay of 317 days for the filing of the reply on July 14, 2003, was entered in error. Applicants are correct that separate periods of reduction should have been entered for this interval. Specifically, the Office agrees with applicants that they should have been assessed delay under 37 CFR 1.704(b) of 25 days for the filing of the response on September 25, 2002 to the Notice to File Missing Parts mailed May 31, 2002, and 28 days for the filing of the response on February 21, 2003 to the Notice to Comply with Requirements for Sequence Disclosures mailed October 24, 2002. Accordingly, the period of reduction of 317 days will be removed and periods of reduction of 25 days and 28 days will be entered.

However, the Office disagrees with applicants' basis for and calculation of 30 days of delay for the filing of the response on July 14, 2003 to the Notice to Comply with Requirements for Sequence Disclosures mailed March 14, 2003. The Office notes that the basis for reduction of patent term adjustment is 37 CFR 1.704(c)(7), not 37 CFR 1.704(b) as suggested by applicants.

Pursuant to 37 CFR 1.704(c)(7), the submission of a reply having an omission (§ 1.135(c)) is a failure to engage in reasonable efforts to conclude prosecution, and 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, applicants were advised by the Notice to Comply with Requirements for Sequence Disclosures mailed March 14, 2003, that the response as filed on February 21, 2003, contained an omission. On July 14, 2003, applicants filed a response to correct the omission in the response filed on February 21, 2003. However, applicants were advised by the Notice to Comply with Requirements for Sequence Disclosures mailed December 1, 2004, that the response as filed on July 14, 2003, contained an omission. A response correcting the omission was filed on June 1, 2005. Thus, the period of reduction pursuant to 37 CFR 1.704(c)(7) begins on February 22, 2003, the day after the first reply containing an omission was filed, and ends on June 1, 2005, the date the omission was corrected. This constitutes an applicant delay of 830 days. Accordingly, a

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period of reduction of 830 days pursuant to 37 CFR 1.704(c)(7) will be entered.

In view thereof, the patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0) days** (1017 (800 + 217) days of Office delay and 1046 (25 + 28 + 830 + 48 + 30 + 26 + 7 + 52) days of applicant delay.

The Office acknowledges the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

As to applicants' assertion that a period of delay of 120 days should be entered pursuant to 37 CFR 1.704(c)(10) for the filing of a Supplemental Information Disclosure Statement on September 9, 2009, applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Conferee: Kery A. Fries, Senior Legal Advisor

Enclosure: Copy of REVISED PAIR Screen

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Day : Tuesday
Date: 4/27/2010

PALM INTRANET

Time: 10:14:08

PTA Calculations for Application: 10/121024			
Application Filing Date:	04/10/2002	PTO Delay (PTO):	540
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	572
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	3		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
148	04/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		830	
147	04/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		28	
146	04/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		25	
145	04/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		540	
144	04/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	217		
143	04/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	800		
142	04/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	92		
141	04/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	317		
110	09/02/2009	MAIL NOTICE OF ALLOWANCE			
109	08/20/2009	ISSUE REVISION COMPLETED			
108	08/20/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
107	08/20/2009	CASE DOCKETED TO EXAMINER IN GAU			
106	08/20/2009	DOCUMENT VERIFICATION			
105	08/10/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
104	08/20/2009	EXAMINER'S AMENDMENT COMMUNICATION			
103	08/11/2009	NOTICE OF ALLOWABILITY			
101	06/13/2009	DATE FORWARDED TO EXAMINER			
100	05/11/2009	RESPONSE AFTER NON-FINAL ACTION			
99	02/11/2009	MAIL NON-FINAL REJECTION			
98	02/11/2009	NON-FINAL REJECTION			
95	12/04/2008	DATE FORWARDED TO EXAMINER			
94	11/21/2008	RESPONSE AFTER NON-FINAL ACTION		52	91
93	11/21/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
		STATEMENT FILED INDICATING A LOSS OF			

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92	11/21/2008	ENTITLEMENT TO SMALL ENTITY STATUS			
91	06/30/2008	MAIL NON-FINAL REJECTION			
90	06/26/2008	NON-FINAL REJECTION			
89	05/07/2008	INFORMATION DISCLOSURE STATEMENT ~~CONSIDERED~~			
88	05/07/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
87	05/15/2008	DATE FORWARDED TO EXAMINER			
86	05/07/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
85	05/15/2008	DATE FORWARDED TO EXAMINER			
84	05/07/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		7	74
83	05/15/2008	DISPOSAL FOR A RCE / CPA / R129			
82	05/07/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
81	05/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
80	05/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
79	05/07/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
77	01/15/2008	REFERENCE CAPTURE ON IDS			
76	01/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		26	68
75	01/31/2008	CASE DOCKETED TO EXAMINER IN GAU			
74	01/30/2008	MAIL FINAL REJECTION (PTOL - 326)			
73	01/29/2008	FINAL REJECTION			
72	01/15/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
71	11/01/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
70	01/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
69	01/03/2008	DATE FORWARDED TO EXAMINER			
68	12/20/2007	RESPONSE AFTER NON-FINAL ACTION			
67	11/01/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66	11/01/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	09/20/2007	MAIL NON-FINAL REJECTION			
64	09/17/2007	NON-FINAL REJECTION			

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63	07/13/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	08/02/2007	DATE FORWARDED TO EXAMINER			
61	07/27/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
60	08/02/2007	DATE FORWARDED TO EXAMINER			
59	07/27/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		30	53
58	08/02/2007	DISPOSAL FOR A RCE / CPA / R129			
57	07/27/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
56	07/27/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
55	07/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
54	07/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	03/27/2007	MAIL FINAL REJECTION (PTOL - 326)			
52	03/19/2007	FINAL REJECTION			
51	02/08/2007	PG-PUB ISSUE NOTIFICATION			
50	01/25/2007	DATE FORWARDED TO EXAMINER			
49	01/11/2007	RESPONSE AFTER NON-FINAL ACTION		48	47
48	01/11/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
47	08/24/2006	MAIL NON-FINAL REJECTION			
46	08/15/2006	NON-FINAL REJECTION			
45	04/21/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	05/21/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	12/02/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
42	11/30/2005	MISCELLANEOUS ACTION WITH SSP			
41	10/21/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
40	10/05/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
39	07/14/2003	PRELIMINARY AMENDMENT			
38	10/17/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
37	09/27/2005	DATE FORWARDED TO EXAMINER			
36	09/19/2005	RESPONSE TO ELECTION / RESTRICTION FILED			

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35	08/18/2005	MAIL RESTRICTION REQUIREMENT			
34	08/17/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
33	06/14/2005	DATE FORWARDED TO EXAMINER			
32	06/01/2005	RESPONSE AFTER NON-FINAL ACTION		92	30
31	06/01/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	12/01/2004	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT	540		-1
29	11/29/2004	MISCELLANEOUS ACTION WITH SSP			
28	04/21/2004	REFERENCE CAPTURE ON IDS			
27.7	04/21/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	04/21/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	04/14/2004	CORRESPONDENCE ADDRESS CHANGE			
25.7	05/21/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	05/21/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	02/21/2003	SUBSTITUTE SPECIFICATION FILED			
23	02/21/2003	PRELIMINARY AMENDMENT			
22	04/13/2004	CASE DOCKETED TO EXAMINER IN GAU			
21	09/15/2003	APPLICATION DISPATCHED FROM OIPE			
20	09/16/2003	APPLICATION IS NOW COMPLETE			
19	07/14/2003	ADDITIONAL APPLICATION FILING FEES		317	4
18	07/14/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
17	09/15/2003	CORRESPONDENCE ADDRESS CHANGE			
16	08/15/2003	CORRESPONDENCE ADDRESS CHANGE			
15	07/25/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
14	03/14/2003	SEQUENCE ERRORS			
13	02/21/2003	ADDITIONAL APPLICATION FILING FEES			
12	02/21/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
11	03/12/2003	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
10	10/24/2002	SEQUENCE ERRORS			
9	09/25/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			

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8	09/25/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
7	09/25/2002	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
6	09/25/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	10/21/2002	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
4	05/31/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	04/26/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	04/10/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Glenn E. Brew	: DECISION ON REQUEST FOR
Patent Number	: 7614077	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/121,033	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1236** 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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A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE, FL 32606-6669

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OFFICE OF PETITIONS

In re Application of	:	
Yen et al.	:	
Application No. 10/121,034	:	DECISION GRANTING PETITION
Filed: April 10, 2002	:	UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. G-089US05DIV	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 26, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on April 10, 2002 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and 365(c) and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an

unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

37 CFR 1.78(a)(3) and 1.78 (a)(6) require 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. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.78(a)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(3) and 1.78(a)(6).

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Paralegal Liana Chase at (703) 306-0482.

This application is being forwarded to Technology Center Art Unit 2832 for appropriate action on the amendment submitted January 26, 2004, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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In re Application of :
Yen, et al. : DECISION ON APPLICATION
Application No. 10/121,034 : FOR PATENT TERM ADJUSTMENT
Filed: April 10, 2002 :
Atty. Dkt. No.: G-089US05DIV :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)," filed April 18, 2006.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The correct patent term adjustment (PTA) at the time of the allowance is 800 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the Notice of Allowance reflects an adjustment of 800 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed January 26, 2006, indicated that the PTA to date is 653 days. The instant application for patent term adjustment was timely filed April 18, 2006. Applicants request that the PTA be corrected from 653 days to reflect an adjustment of 800 days.

An adjustment of 806 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1). It is acknowledged that the restriction requirement mailed March 24, 2005 was vacated June 29, 2005. Accordingly, the period of adjustment under 37 CFR 1.702(a)(1) and 1.703(a)(1) commenced June 11, 2003, the day after the day that is 14 months after the date that the application was filed, and ended August 24, 2005, the date the non-final Office action was mailed.

The adjustment of 806 days is reduced six days in accordance with 37 CFR 1.704(b) in connection with applicants' response to the Notice to File Missing Parts mailed July 1, 2002. The reduction began October 2, 2002, the day after the date that is three months

after the date the Notice was mailed, and ended October 7, 2002, the date a reply was submitted.

In view thereof, at the time of allowance, the application is entitled to an adjustment of 800 days, as argued by applicants.

Receipt is hereby acknowledged of the required The required Patent Term Adjustment application fee of $200.00.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Office of Patent Publication for issuance of a patent.

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: Adjusted PAIR Calculation

Day : Saturday
Date: 9/16/2006

PALM INTRANET

Time: 15:00:44

PTA Calculations for Application: 10/121034			
Application Filing Date:	04/10/2002	PTO Delay (PTO):	653
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	800
PTO Delay Adjustment:	147		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
66	09/16/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	147		
49	01/26/2006	MAIL NOTICE OF ALLOWANCE			
48	01/26/2006	MAIL EXAMINER'S AMENDMENT			
47	01/24/2006	ISSUE REVISION COMPLETED			
46	01/23/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	01/23/2006	CASE DOCKETED TO EXAMINER IN GAU			
44	01/23/2006	EXAMINER'S AMENDMENT COMMUNICATION			
43	01/23/2006	NOTICE OF ALLOWABILITY			
42	11/22/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
41	12/02/2005	DATE FORWARDED TO EXAMINER			
40	11/22/2005	RESPONSE AFTER NON-FINAL ACTION			
39	09/23/2005	CORRECTED FILING RECEIPT			
38	08/24/2005	MAIL NON-FINAL REJECTION			
37	08/22/2005	NON-FINAL REJECTION			
36	08/10/2005	CASE DOCKETED TO EXAMINER IN GAU			
35	07/07/2005	MISCELLANEOUS INCOMING LETTER			
34	06/29/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
33	06/29/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
32	06/29/2005	MAIL NOTICE OF WITHDRAWN ACTION			
31	06/29/2005	LETTER WITHDRAWING / VACATING OFFICE ACTION			
30	04/25/2005	MISCELLANEOUS INCOMING LETTER			
29	03/24/2005	MAIL RESTRICTION REQUIREMENT	653		-1

28	03/21/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
27	10/15/2004	CORRESPONDENCE ADDRESS CHANGE			
26	09/14/2004	PETITION DECISION - GRANTED			
25	07/02/2004	NEW OR ADDITIONAL DRAWING FILED			
24	07/02/2004	PRELIMINARY AMENDMENT			
23	07/02/2004	WORKFLOW INCOMING AMENDMENT IFW			
22	01/26/2004	PETITION ENTERED			
21	01/26/2004	PRELIMINARY AMENDMENT			
20	10/08/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	03/23/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	11/21/2002	CASE DOCKETED TO EXAMINER IN GAU			
17	04/11/2002	PRELIMINARY AMENDMENT			
16	11/04/2002	APPLICATION DISPATCHED FROM OIPE			
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8	10/07/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	10/17/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
6	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
4	06/03/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
3	05/29/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/23/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/11/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Date Calculator Result

From 06/10/2003 to 08/24/2005 is 806 days.

New calculation

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : September 27,2007

TO SPE OF : ART UNIT 1642

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/121,034 Patent No.: 7122644 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.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

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/Shanon Foley/ 1642

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OFFICE OF PETITIONS

In re Patent No. 7,122,644 :
Issued: October 17, 2006 :
Application No. 10/121,034 : PATENT TERM ADJUSTMENT
Filed: April 10, 2002 :
Dkt. No.: G-089US05DIV :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PERIOD IN GRANTED PATENT UNDER 37 CFR 1.705(d)," filed December 13, 2006.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is GRANTED.

The above-identified application matured into U.S. Patent No. 7,122,644 on October 17, 2006. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 739 days. Patentees argue that the adjustment correct adjustment at the time of issuance is 859 days.

At the time of allowance, the application was entitled to an adjustment of 800, as indicated in the decision on application for patent term adjustment mailed September 18, 2006.

The adjustment of 800 was improperly reduced 120 days in connection with the "STATEMENT OF SUBSTANCE OF INTERVIEW UNDER 37 C.F.R. § 1.133," filed December 13, 2006. A review of the record reveals that the Statement was required in response to the Interview Summary mailed January 26, 2006. Accordingly, the Statement is not deemed a "submission" after allowance within the meaning of 37 CFR 1.704(c)(10).

The adjustment of 59 days properly accorded under 37 CFR 1.702(a)(4) is not in dispute.

Accordingly, at the time of issuance, the application was entitled to a patent term adjustment of 859 days as argued by patentees.

Patentees' deposit account has been charged the required PTA application fee of $200.00, as authorized.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 859 days.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,122,644 B2
DATED	:	October 17, 2006
INVENTOR(S)	:	Yen, 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 739 days

Delete the phrase "by 739 days" and insert – by 859 days--

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Allergan, Inc.
T2-7H
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Irvine, CA 92612

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OFFICE OF PETITIONS

In re Application of :
Robert T. Lyons :
Application No. 10/121,076 : ON PETITION
Filed: April 12, 2002 :
Attorney Docket No. 17433 (AOC) :

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being referred to Technology Center 1600 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy